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Lending Bill Passes Divided Senate, Awaits Final Action By House

A contentious proposal to overhaul the state's short-term lending laws passed the Senate Tuesday despite a divided Republican majority.

The chamber voted 21-9 in favor of the measure (HB 123), with the opposition coming from Republican members concerned the measure would go too far in pushing lenders out of the industry and limiting access to credit.

The passage is a major step in the long journey of the legislation, which passed the House in June and went through seven sometimes heated hearings in the Senate Finance Committee.

That committee reported the measure earlier in the day Tuesday after accepting one amendment and rejecting several others. This came a day after it went through significant changes in a substitute version designed to make it easier for lenders to stay in business. (See Gongwer Ohio Report, July 9, 2018)

It now heads back to the House for that chamber's consideration of the Senate changes. The House has a pair of "if-needed" session days scheduled for September, with the other scheduled sessions set for after the November election. (See Gongwer Ohio Report, June 28, 2018)

Senate President Larry Obhof (R-Medina) said after the vote that he thought the measure would help provide consumer protections while still allowing people to access credit.

"I don't think people should be trapped in a debt spiral that they can't get out of. I think we all agree with that," he said. "I think the question for the people who may have voted differently is what's the right amount of involvement there to provide consumer protections but maintain credit, and I think we ended up there."

Sen. Scott Oelslager (R-N. Canton), chairman of the Finance Committee, which reviewed and updated the measure, said he felt it was a "balanced bill" and dismissed concerns no lenders would offer loans in the state.

"As long as there is a need and money to be made, there will be a lender who will be competitive and profitable," he said after the session.

Several senators spoke against the bill ahead of the vote.

"Flat out, it's just a bad idea," said Sen. Bill Coley (R-Liberty Twp.).

He said there will always be a need for short-term loans, and that the measure doesn't address that, but only serves to push out one option currently available to borrowers.

"You're not helping anyone, because you're not dealing with the fundamental demand," he said.

Sen. Lou Terhar (R-Cincinnati) said it would make it difficult for anyone with a credit score below about 600 to receive credit of any kind. He also said the prohibition on auto title loans will further reduce the ability for some people without lots of assets to borrow.

"If they have an economic asset, should they not have the choice to use that as collateral in a loan?" he said. "To effectively ban a way for somebody to use that asset violates the basic doctrine we've all been taught since we were children."

Some senators raised concerns with a provision that caps payments for loans up to 90 days at 6% of the borrower's gross monthly income, effectively setting income limits for who can obtain loans for those short terms.

"If you do the arithmetic, a loan under the bill that is paid over the course of four months will, at the end of the day, cost a heck of a lot more to the consumer than the 30-day loan will cost," Sen. John Eklund (R-Chardon) said.

Sen. Dave Burke (R-Marysville) pushed back, saying longer-term loans give borrowers more ability to pay them back than a series of escalating 30-day loans.

"I support this bill not because it is perfect, but because it is good," he said. "Lower interest rates on the poor is a good direction to go. Lower fees on the poor is a good direction to go."

Sen. Vernon Sykes (D-Akron) said the legislation is long-needed to fix a loophole left in the 2008 law to regulate payday lenders.

"All that we did in 2008 didn't help anybody," he said. "But the reason it didn't help anybody is that they found a loophole and then they didn't have to follow those regulations. They've been gouging Ohioans ever since."

"What we have before us is an elimination of the loophole, and we are making the loans more affordable," he added.

Joining Sen. Coley, Sen. Terhar and Sen. Eklund in opposition were Sen. Bob Hackett (R-London), Sen. Frank Hoagland (R-Adena), Sen. Matt Huffman (R-Lima), Sen. Kris Jordan (R-Ostrander), Sen. Rob McColley (R-Napoleon) and Sen. Joe Uecker (R-Loveland).

Three members, Sen. Stephanie Kunze (R-Hilliard), Sen. Edna Brown (D-Toledo) and Sen. Michael Skindell (D-Lakewood), were absent.

The passage drew praise from advocates who had pushed for the measure, including the Pew Charitable Trusts.

"The measure passed in the Senate today is a thoughtful, bipartisan, and fair compromise that builds upon the framework of the House bill," Nick Bourke, director of consumer finance for Pew, said in a statement. "The Senate version provides lenders with more revenue than under the House's measure while maintaining strong consumer protections that would end practices that harm Ohio families."

The Ohio Consumer Lenders Association, meanwhile, blasted the vote.

"Today was a loss for the consumers of Ohio and the more than 1 million Ohioans who use short term loan products every year," spokesman Pat Crowley said in a statement. "The passing of HB 123 - motivated and manipulated by a Washington-based advocacy group that is pushing its agenda of how Ohio consumers should borrow money. The biggest losers are the constituents who now have fewer options for access to cash in the event of a financial emergency. Idealism won today; the consumers of Ohio lost."

Committee Action: The committee reported the measure 10-2, with Sens. Coley and Eklund in opposition. Before the report, the panel accepted an amendment Sen. Oelslager said would allow lenders to operate online as long as they follow the regulations of the Short Term Loan Act.

The panel tabled a series of amendments offered by Sen. Coley, including one modifying the 60% fee cap, one moving the payment cap for loans under three months from 6% of a borrower's gross monthly income to 25%, one making changes to the monthly maintenance fee and one modifying allowable loan origination fees.

Much of the discussion in committee focused on the differences between the substitute version and Colorado's law.

Ted Saunders, president of the Ohio Consumer Lenders Association, presented charts showing the difference in fees and APR for loans between Colorado and the substitute version.

"The vast majority of loans that are made in Colorado would not be possible under the sub bill proposed yesterday," he said.

He said he has long supported rate caps for the industry, which would keep bad actors who charge the highest fees out.

Sen. Oelslager asked why the industry didn't come forward and ask for rate caps in the 10 years since the previous law went into effect.

"Why didn't you come forward then?" he asked. "If you had taken a proactive role, you might not be standing here today."

Mr. Saunders said the industry formed the OCLA to spread best practices, and that they worked with legislators in the House and the Senate to try to include a structure they would prefer.

Another issue Mr. Saunders focused on is the measure's limitation on loans that can be made for 90 days or less. He said the income restrictions will keep Ohioans with average incomes from being able to access loans for terms shorter than three months. Lenders could offer them four-month loans, but that would entail higher rates.

Sen. Burke asked if the legislation would prevent borrowers from paying back loans early and avoiding most of the fees.

"That incentive would certainly be in the consumer's best interest," he said.

Mr. Saunders said nothing would prevent that, but that most borrowers are likely to stick to the terms of the contract.

Mr. Bourke also testified on the differences between Colorado and the proposed Ohio law, and said most loans in Colorado are paid back early.

Part of that is because Colorado's law structures fees so that there is no monthly maintenance fee for the first 60 days, so loans paid back in full before then are cheaper, he said.

The Ohio proposal would provide lenders with more revenue in those cases, he said.

"The lenders under sub HB123 get access to that monthly maintenance fee from day one," Mr. Bourke said.

Another lender, Cheney Pruett, founder and CEO of CashMax, detailed his business operations and said he wouldn't be able to operate under it.

"I'm out of business and almost all others like me in the state will be as well," he said.

Consumers, then, would move to other options, including not paying bills, overdrafting accounts or turning to online lenders, he said.

"I think my customers should have the right to choose for themselves," he said.

Public Notice Changes Among Other Measures To Pass Senate

The Senate returned to work Tuesday for a rare summer session primarily to tackle short-term lending but passed a few unrelated bills while they were at it.

Measures dealing with local governments' use of mail for official documents, the POW/MIA flag and shoreline improvements all cleared the chamber unanimously.

The session was the first available "if-needed" session for the summer, and the chamber took advantage of it to handle the lending proposal. (*See separate story*)

Senate President Larry Obhof (R-Medina) reiterated that he has never intended to take the summer off, and that the chamber has three potential session dates set for September. An if-needed date is also scheduled for August. (See Gongwer Ohio Report, June 27, 2018)

The mail-related measure (HB 34) is designed to save money and increase efficiency for local entities by changing what is required to be sent by certified mail, said Sen. Bill Coley (R-Liberty Twp.).

It would allow local entities to send public notices by regular mail if they were also sent by email, he said.

"These are some great things that should improve notification for citizens and also save our local governments a lot of money," he said.

The measure also picked up an amendment in committee that would allow county prosecutors to represent port authorities, planning commissions and regional airports, he said.

Sen. Joe Uecker (R-Loveland) said the POW/MIA flag measure (HB 254) would designate certain state buildings to fly the flag on certain holidays, reflecting requirements in federal law.

"HB254 is an act to recognize the service of those individuals and to recognize that their sacrifice will never be forgotten," he said.

The proposal dealing with shoreline improvements (SB 51) would allow shoreline improvements as part of a special improvement district. Sponsor Sen. John Eklund (R-Chardon) said it would include specific requirements for the projects, including that they would need 100% support among residents.

Levies could be assessed for up to 30 years, and the projects would be designed to reduce shoreline erosion, he said.

Projects would be required to comply with zoning and environmental and coastal management laws and rules, he said.

Sen. Sean O'Brien (D-Bazetta) said the ability to fund the projects through this mechanism can help preserve a vital resource.

"We have a lot of work to do there, and this is a step in the right direction that will help abate that problem," he said.

Ed Board Boosts Third-Grade Reading Benchmark

The State Board of Education on Tuesday approved an increase to the Third Grade Reading Guarantee promotion score after rejecting a committee proposal to hike the new standard beyond the Department of Education's recommendation.

The full panel voted 16-0 to increase the score students need to achieve on the Ohio State Test for third grade English and language arts from 672 to 677 for the 2018-19 school year, as recommended by ODE. The move came after the board voted 9-7 to reject a resolution recommended earlier in the day by the Achievement and Graduation Requirements Committee to set the necessary score at 682.

That committee advanced the higher of the two proposed benchmarks by a 4-2 vote, with District 4 board member Pat Bruns and at-large board member Cathye Flory siding against the 682 benchmark.

At-large board member Kara Morgan, who advocated for the higher of the two standards in committee, said the state annually requires the board to re-evaluate and increase the benchmark until it eventually reaches 700, which represents proficiency. While she conceded making the jump to 700 immediately "would be a shock to the system that might not be the best thing for the students," she added that she thinks the state and districts have enough resources in place to deal with the change to 682.

"I just think that it's time to push forward with the pace," she said, adding that the board could move forward with a smaller increase next year if this year's increase proves too taxing for districts.

Ms. Bruns and Ms. Flory both said they could not support the change to 682 without conducting additional conversations with their constituents. The committee last month delayed its vote on the recommendation to give its members more time to discuss the change to 677 with local school district officials. (See Gongwer Ohio Report, June 12, 2018)

District 11 board member Meryl Johnson was among the nine members who sided against the higher of the two possible increases when the measure came to the full board for a vote. She said she felt raising the promotion score too drastically could lead to a financial strain on districts that could be forced to devote more staff time and other resources to intervention efforts with students who fall short of the standard.

"This is an unfunded mandate," she said.

Other board members argued raising the score more sharply could benefit local school districts.

Sarah Fowler, who represents District 7, said the state board is drawing out the legally required process of getting to the score of 700, which leads to more year-to-year uncertainty for school districts.

"If we're going to give the districts the stability that they've asked for, we have to get to proficient," she said.

District 10 board member Nick Owens said he also feels it's time for the state to "speed it up" in terms of expectations for school districts.

"I don't want us to be on a 10-year quest or a 28-year quest," he said of the mandate to eventually hike the score at 700.

After the board rejected the committee's recommendation, it moved to reconsider the resolution and accepted an amendment to move forward with the score of 677. Ms. Fowler cast the lone vote against the change before the board unanimously approved of the legislation.

In other action, the board unanimously voted to delay the implementation of overall grades for career and technical schools on state report cards for a year, adopt 2018 standards for principals and approve the transfer of territory from the Milford Exempted Village School District to the Indian Hill Exempted Village School District.

Gubernatorial Hopefuls Address Infrastructure, Transportation Plans

Both Mike DeWine and Richard Cordray on Tuesday promised if elected governor to empower local communities to help guide their administration's approach to infrastructure, workforce development and other pressing local issues.

Their remarks were delivered at a downtown Columbus hotel and directed at attendees of an Ohio Association of Regional Councils conference. There the pair addressed the audience in separate Q&A sessions on how they'd grapple with aging roads and bridges, inadequate mass transit and other challenges.

The two candidates overall stuck to the issues at hand but did make time to trade a few barbs on the ongoing Electronic Classroom of Tomorrow controversy and on where blame should lie for the opioid epidemic.

Regarding infrastructure, the two candidates laid out differing plans, but neither confirmed whether they would support potential revenue streams including indexing the motor fuel tax to the Consumer Price Index or increasing the use of tolls.

Attorney General DeWine said one of his first acts in the governor's seat would be to create a blue-ribbon commission to examine those and other funding ideas.

"We will put citizens on there," the Republican said. "We will put experts on there. I will give them a very short period of time to come back and give a report about the status of our infrastructure. Once that has come back we need to have that candid discussion. What a governor owes the state is honesty, a candid discussion about exactly where we are."

Mr. Cordray was unimpressed.

"A blue-ribbon commission is often an excuse for not being ready to lead or not being ready to set a direction for the state," the Democrat said. "I think if you're running for governor of the state you bear a responsibility to set a direction and I've made my commitment and I will follow through on it."

Mr. Cordray's commitment entails a "significant" bond issue that he believes voters would support thanks to their frustration with inaction from leaders in Washington and Ohio. He declined to specify the exact size of the bond issue he would put forth.

"I'll go to the people and make the case and I believe they'll support that because they'll understand long-term financing is suitable to a long-term investment of this kind and they'll want to know we're doing something to improve our roads and bridges and get broadband across the state," he said.

Other pressing issues addressed by the duo included:

Opioids: Mr. Cordray continued laying some of the blame for the growth of the epidemic at Mr. DeWine's feet - a charge Mr. DeWine staunchly denied.

"When you hold public office you bear responsibility and if you're not prepared to bear responsibility you shouldn't hold public office," Mr. Cordray said. "On his watch the opioid deaths tripled in Ohio. That's a fact. There's no wishing that away."

Mr. DeWine called it "absurd" to blame him for the growth of the opioid epidemic and said his opponent has his work cut out for him if he plans to convince Ohioans that's the case.

"I don't think anybody thinks I'm to blame for the drug problem," Mr. DeWine said. "I think the real question is who has taken action? I have taken action. We have a 14-point plan. Cordray has no plan."

The Republican candidate stressed prevention starting as early as kindergarten and said he would double the number of attorney general task forces dedicated to the issue if elected. He also said he intends to ensure his first state budget includes an infusion of dollars to support anti-opioid efforts targeted at children.

"While we cannot project next year's budget or what will be available, one thing I will commit to is there will be significantly more money for every county in the state regarding children's services," he said.

Workforce Development: Mr. DeWine called for a cultural shift by renewing the emphasis on trade schools rather than funneling all students toward traditional colleges. He also stressed the early childhood education plan he rolled out last month as one solution. (See Gongwer Ohio Report, June 28, 2018)

"There is no magic solution," Mr. DeWine said. "I think a governor can impact the culture... (and) has the best ability to talk to people in the state than anybody else does."

Mr. Cordray said he agrees with some of those points, but additionally expressed a desire to expand childcare options for working parents, provide additional support for community colleges, and establish universal preschool.

"It is not a looming economic problem for Ohio," he said. "I think it is a current economic problem for Ohio."

Transportation Technology: Both men expressed a desire to ensure Ohio remains at the vanguard of technological advancements in this area.

Mr. Cordray specifically said he wants to ensure the state deploys the same technology, where applicable, in both urban and rural areas.

And Mr. DeWine called advancements "exciting," adding that "quite candidly, we're either going to adapt and move forward or we're going to get left behind."

ECOT: Mr. DeWine defended his legal work as his office attempts to reclaim funding from the shuttered Electronic Classroom of Tomorrow and its founders. (See Gongwer Ohio Report, July 5, 2018)

"Other people have talked, we've taken action," Mr. DeWine said. "We're using every single tool that we can to recover taxpayers' money from Bill Lager, and anyone else who benefited. ... We will not stop until we have done absolutely everything we can."

But Mr. Cordray said his administration would be more aggressive in pursuing accountability in such cases. He and Democrats have criticized Mr. DeWine for not acting against ECOT sooner.

"We need a state government that is willing to hold people accountable and willing to separate what's working and what's not," Mr. Cordray said.

Other Issues: Although both men received mostly the same questions, there were a few differences. Mr. DeWine was quizzed on how he'd tackle agricultural runoff fueling harmful algal blooms.

Without sharing details, Mr. DeWine said he wants a science-based approach fashioned with input from all sides of the issue.

"We're going to be reaching out to the experts in this area," Mr. DeWine said. "I don't have all the answers sitting up here but my commitment is...what we do will be scientific-based, but I will lead in this area. It certainly appears that what we are doing is not getting it done."

And Mr. Cordray received a query about JobsOhio - the quasi-public agency that has drawn criticism for its lack of transparency in economic development dealings.

Mr. Cordray said overall that JobsOhio has an important mission that should be furthered and that the entity is a "very powerful and flexible tool" he could utilize as governor.

"But I do want it to be transparent so we know what's happening with it," he said. "And the collaboration with local (governments) and councils of your kind possibly could be improved, but I do think that's a tool I'll be interested to work with."

Supreme Court Pick: Lastly, both men sounded off on President Trump's selection of D.C. Court of Appeals Judge Brett Kavanaugh for the upcoming Supreme Court vacancy. (*See separate story*)

"I'm very excited about this nomination," Mr. DeWine said. "The president of the United States continues to be consistent in putting people on the federal bench who are conservatives and constructionists. Kavanaugh is extremely well qualified for this job. I support him and look forward to seeing him on the court."

Mr. Cordray was less enthusiastic about the selection, saying that it "underscores the critical need for Ohioans to have...a governor who will stand on their side and fight back against attempts to undermine our rights."

Mr. Cordray previously received campaign contributions from Judge Kavanaugh as both worked as clerks for retiring U.S. Supreme Court Justice Anthony Kennedy. Mr. DeWine's campaign seized on that fact in an effort to paint the candidate as a hypocrite.

But Mr. Cordray said his past with the SCOTUS candidate is no different than with any other attorney or judge he's crossed paths with throughout his work experience.

"I've had various dealings with a lot of lawyers and judges over the years," Mr. Cordray said. "I have relationships with a lot of people who have argued and spent time with the Supreme Court from clerking there and arguing the cases I've argued there over the years."

Panel Suggests Revisions To State Report Cards

A State Board of Education working group's initial recommendations for changes to state report cards for school districts include moving away from letter grades and eliminating or revising the K-3 literacy category.

The full board Tuesday reviewed and discussed the changes suggested by the working group, which is set to reconvene in October to analyze report cards for the 2017-18 school year and consider additional recommendations. The group features members of the board's Accountability and Continuous Improvement Committee, along with representatives from outside education groups, including the Buckeye Association of

School Administrators, the Ohio Education Association, the Ohio PTA and the Ohio School Boards Association, among others.

The group's draft report calls the K-3 Literacy category on the existing report card "misleading" and recommends the legislature eliminate it or replace it with a category named "promotion rate," which measures the percentage of students meeting Third-Grade Reading Guarantee requirements for advancement to fourth grade. If the K-3 Literacy measure remains, the group requests the state rename it to better reflect what it is measuring.

"Report card users think it is a measure (of) literacy performance for all K-3 students when in fact it is a complicated portrayal of efforts to improve outcomes for struggling readers," the report states. "Some schools may have a small number of students struggling with literacy, while the vast majority of students are succeeding - but the current measure only reflects the struggling students."

The report also recommends the legislature eliminate the Indicators Met category as a graded measure and rely on districts' Performance Index scores to measure achievement. The report states the Indicators Met measure has "inherent weaknesses" because it does not "differentiate between schools that are close to meeting or far from meeting a target."

On the topic of letter grades, the report recommends they be replaced with "descriptive labels" such as "Does Not Meet Standards" and "Meets Standards," although it notes the group intends to discuss the idea in greater detail when it reconvenes in October.

Among the other topics set for further consideration this fall include how the report card can better represent value added, or the amount a student or group of students progresses in a year.

Nancy Hollister, the board's vice president, stressed the preliminary nature of the report, which has not been voted on by the full board.

"This is a list of recommendations," she said. "This is the beginning of a subject that needs to be discussed. This is not an end-all."

The board's effort to suggest revisions to the report card comes amid Rep. Mike Duffey's (R-Worthington) ongoing push for a measure (HB 591) to overhaul the state's system for evaluating school districts. (See Gongwer Ohio Report, May 23, 2018)

The lawmaker said he later would author a full review of the group's draft report, but offered initial suggestions to the board Tuesday.

Instead of suggestions for individual categories, Rep. Duffey said he encouraged the group to take a holistic approach in its recommendations for updating the report card system. He also expressed concern because the full board is not expected to vote on the group's recommendations until the fall or winter.

"It may be too late to have much of an impact on the current legislative process," he said.

District 5 Board member Lisa Woods said she was appreciative of the panel's work, but disappointed with its pace.

"I wish we would have gone a little faster and a little deeper and actually had some effect on this coming report card," she said.

District 11 board member Meryl Johnson said she's glad the working group is taking a "deep dive at a very complicated issue"

She said she thinks the existing report card system can lead to unfair consequences for certain districts, including state takeovers.

"When you have an unreliable measure that's being used to disenfranchise a community, that's a problem," she said.

Rep. Duffey said certain categories on the existing report card can better reflect a district's wealth rather than the work of its educators, something he is hoping to correct with his legislation.

High Court: Class Action BWC Suit Seeks Legal Relief, Filed In Wrong Court

A class action lawsuit against the Bureau of Workers' Compensation over administration fees collected by a third party must be filed in the Court of Claims, the Ohio Supreme Court ruled Tuesday.

Writing for the majority, Chief Justice Maureen O'Connor found that the lawsuit was improperly filed in common pleas court because it seeks a form of legal relief rather than equitable relief.

The case stems from a 2010 lawsuit filed by Michael Cirino in Cuyahoga County Common Pleas Court seeking to recoup administrative fees collected by JP Morgan Chase, the court's media arm reported.

Mr. Cirino argued that a 2006 law that paved the way for BWC payments through debit cards required the agency to cover all administrative costs.

However, Mr. Cirino said he incurred several \$5 fees by accessing his bimonthly payments while visiting a bank teller.

After consulting with a lawyer, he filed the class action lawsuit arguing that it is injured workers that are paying the administrative cost despite the 2006 law.

The BWC sought to dismiss the case, contending Mr. Cirino was seeking legal relief. But the trial court and the Eighth District Court of Appeals disagreed.

"The crux of the claim is therefore that the bureau has improperly allowed benefit recipients to be harmed by fees charged by Chase and that the proper relief is to have the bureau pay money to compensate for that loss," Chief Justice O'Connor wrote in overturning the lower court rulings. "The claim therefore seeks compensatory relief - a classic form of legal relief."

Mr. Cirino also unsuccessfully argued that the claim is equitable because Chase acts as the BWC's agent.

"Assuming without deciding that an agency relationship existed, neither Cirino nor the trial court nor the court of appeals has pointed to evidence that the bureau has the power in any such relationship to control the disposition of funds that have been charged by Chase as fees," Chief Justice O'Connor wrote. "The court of appeals and the trial court did not analyze this issue, and Cirino has disclaimed reliance on an agency argument altogether."

She was joined in her opinion by Justice Patrick Fischer and Justice Mary DeGenaro.

In a separate concurring opinion joined by Justice Sharon Kennedy and Justice Judith French, Justice Patrick DeWine found that the funds for which Mr. Cirino is seeking restitution are not held by the bureau.

"Here, the BWC disbursed the funds held for Cirino to the bank," he wrote. "After the specific funds to which Cirino claims he was entitled were transferred to Chase, the bank deducted the fees that are at issue in this lawsuit. Thus, any remedy due Cirino would be paid not from particular funds held by the BWC to which Cirino can trace entitlement, but from the BWC's funds generally."

In a dissenting opinion, Justice Terrence O'Donnell sided with Mr. Cirino.

"Because Cirino's claim seeks the full monthly benefit of his award, the administrative costs assessed by Chase are costs of administering the benefits program to be borne by the state," he wrote. "Thus, this is an equitable claim and therefore the common pleas court, not the Court of Claims, has jurisdiction in this case."

Kavanaugh Nomination Leads To Strong Reaction On Both Sides

Ohio partisans quickly staked out their corners shortly after the president late Monday announced his latest nomination to the nation's highest court.

Those on the left warned in statements that President Donald Trump's selection of Brett Kavanaugh could spell the end of long-standing precedent such as *Roe v. Wade*. Those on the other side of the ideological divide hailed the D.C. Circuit Court judge as an

accomplished jurist that deserves a fair and thoughtful confirmation process in the U.S. Senate.

The political battle that has the potential to shift the court decidedly rightward for decades could play out for months as Mr. Kavanaugh, a staffer in the White House of President George W. Bush, left a lengthy paper trail for Democrats to sift through and scrutinize as they try to mount a daunting challenge to the nominee, one that could reshape midterm election contests across the country.

If confirmed, Mr. Kavanaugh would replace Justice Anthony Kennedy, long the "swing vote" on the court, who, after being nomination by President Ronald Reagan, voted with the liberal bloc on the court to uphold abortion rights and legalize same-sex marriage.

Left-leaning groups and Democrats were quick to emphasize those issues as possibly at stake, while conservative interests and Republicans largely avoided specific issues that could come before the court in the future.

One of the few exceptions was Ohio Right to Life, which said that it looks forward to *Roe* being overturned "so that Ohio can set its own pro-life policies."

"Kavanaugh has a proven judicial record that he will interpret the Constitution as written and will not be an activist justice," President Mike Gonidakis said. "We thank President Trump for holding to his promise that he would nominate pro-life Justices to the court."

U.S. Sen. Rob Portman (R-Terrace Park) was one of several individuals or groups on the right who avoided the issue of *Roe* and instead focused on the confirmation process.

"Judge Kavanaugh has an impressive background," he said. "He is highly regarded as a fair-minded and independent judge and is clearly qualified to serve on the Supreme Court. I look forward to meeting with him in the coming weeks as he goes through a fair and thorough evaluation process."

Americans for Prosperity-Ohio said its national group plans to commit seven figures to supporting Mr. Kavanaugh's confirmation.

"We hoped President Trump would nominate a judge in the likeness of Neal Gorsuch," the group said. "By nominating Judge Kavanaugh, he has kept his promise to select a jurist with an exemplary record of judicial restraint and a commitment to the Constitution, both of which are vital to serving on the highest court."

State Auditor Dave Yost and Senate President Larry Obhof (R-Medina) both praised the nominee, saying he will not legislate from the bench.

"Predictability and stability need to be the hallmarks of the law," Mr. Yost said during a conference call with reporters.

Ohio Republican Party Chairman Jane Timken used the announcement to put U.S. Sen. Sherrod Brown (D-Cleveland) on the spot.

"I urge Democrat Senator Sherrod Brown to learn from his previous mistake of obstructing Justice Neil Gorsuch's confirmation and respect the will of Ohio voters," she said.

Sen. Brown, one of several red state Democrats up for re-election who will face pressure to vote for the president's nominee, said he has "serious concerns" about recent decisions issued by Judge Kavanaugh, including those involving women's rights.

"I plan to review Judge Kavanaugh's record thoroughly and ask him tough questions face-to-face before I make my decision," he said. "I will not support any justice who would take rights away from Ohioans."

Planned Parenthood and NARAL Pro-Choice Ohio also raised the specter of *Roe* in blasting the nomination.

"President Trump promised to appoint justices that would overturn or gut *Roe v. Wade*," NARAL Pro-Choice Ohio Executive Director Kellie Copeland said. "Because this seat on the U.S Supreme Court is the difference between upholding *Roe* and criminalizing abortion and punishing women, the burden of proof must be on the Trump's nominee, Judge Brett Kavanaugh, to proactively prove he will preserve *Roe v. Wade* and not criminalize abortion."

Tyler Dillon, communications director at ProgressOhio, warned that the nomination puts gains made in health care and environmental issues at risk.

"Kavanaugh's nomination threatens affordable access to health care, places corporations above Americans in the eyes of our law, and could destroy protections for our clean air and water," he said.

The Ohio Democratic Party sought to capitalize on the nomination by asking for money.

"Trump's nomination of Brett Kavanaugh could give Republicans the vote they need to overturn *Roe v. Wade*, gut workers' rights and strip away the protections of the Affordable Care Act," it wrote in a fundraising email.

The Ohio Environmental Council characterized the choice as "reckless," saying Judge Kavanaugh will "work tirelessly to undo protections to keep our air, land, and water clean and safe."

Exelon Moves To Purchase FirstEnergy Solutions

The financially troubled FirstEnergy Solutions has found a suitor in the way of Chicago-based Exelon, which is proposing to purchase the company currently seeking bankruptcy protection.

The tentative agreement, which has not yet been approved, is part of FES's ongoing case in U.S. Bankruptcy Court.

Documents filed Tuesday show Exelon is eyeing acquiring FES's wholesale and other commodity contracts for \$140 million in cash.

The prospective buyer has agreed to use "commercially reasonable efforts" to replace guarantees and credit support currently being provided by FirstEnergy in support of ongoing competitive retail businesses.

The filing before the Securities and Exchange Commission states the transaction is expected to close in the fourth quarter of 2018. Either party can terminate the agreement should it fail to close by Dec. 31.

Neither company has commented on the potential deal, which must still be approved by the government.

FES filed for Chapter 11 protections in April in a long-expected move, with the company billing it as a major step in its strategy to exit the competitive generation business and become a fully regulated utility. (See Gongwer Ohio Report, April 2, 2018)

Since then, FES and its parent company, FirstEnergy, have continued to press Ohio lawmakers and the Trump Administration to enact new financial supports to maintain operation of its nuclear plants.

In Ohio that includes any of a trio of bills (SB 128, HB 178 & HB 381) to create a new zero-emissions credit program. Those proposals have gained little traction, however. (See Gongwer Ohio Report, April 23, 2018)

And at the federal level the requested assistance involves engagement of the Federal Power Act to preserve what the company calls vital resources. The move has drawn much opposition from stakeholder groups. (See Gongwer Ohio Report, June 1, 2018)

Renacci Pledges To Serve Two Terms; Dialysis Issue Gets Formal Opposition; Group Looks To Make It Easier To Opt-Out Of Unions...

U.S. Rep. Jim Renacci (R-Alliance) vowed on Tuesday to serve just two six-year terms if he ousts Sen. Sherrod Brown (D-Cleveland) in the fall.

"We have to make sure we get term limits established in Washington because the power base becomes so that people are not voting for their state anymore but they start voting for their leadership," he said during an event in Cincinnati, where he also committed to supporting a constitutional amendment to limit House members to three terms and members of the Senate to two terms.

Rep. Renacci also blasted Sen. Brown for his lengthy career in elected office. But the campaign of the Democrat fired back, with Preston Maddock, communications director, in a statement calling the pledge "worthless."

"He's already said he doesn't believe in term limits and, as a four-term congressman, he's in violation of this gimmick pledge," he said. "Instead of setting fake deadlines for his time in office, Ohio would be better off without Congressman Renacci's anti-worker, self-serving agenda in Congress at all."

In the race to build a campaign war chest, Sen. Brown is far outpacing his challenger, reporting raising \$3.7 million in the second quarter, giving him \$11.1 million on hand.

"Ohioans from across the state are committed to re-electing Sherrod so he can keep fighting for them in the Senate," Rachel Petri, a campaign spokeswoman, said in a statement. "They are volunteering their time, contributing what they can, and building a grassroots campaign to defeat the D.C. lobbyists and special interests that want to replace Sherrod with one of their own."

Rep. Renacci, meanwhile, reported raising more than \$2 million during the quarter. He did not reveal his total on hand.

"It's clear the people of Ohio are tired of career politician Sherrod Brown raising taxes, creating burdensome and unnecessary regulations that hurt Ohio small businesses, and failing to take care of our nation's veterans," he said.

Formal Opposition: The Kidney Dialysis Patient Protection Amendment has formal opposition. Nearly 20 groups, including the Ohio State Medical Association, have formed Ohioans Against the Reckless Dialysis Amendment.

Spokesman Gene Pierce in a statement accused the SEIU on Tuesday of having "a long history of abusing the ballot issue process to advance its own political agenda."

"That its amendment would actually harm Ohio dialysis patients comes as no surprise to those familiar with the SEIU's strong-arm tactics," he added.

SEIU spokesman Anthony Caldwell did not respond to a request for comment by publication time.

Opt-Out: The Buckeye Institute in the wake of the *Janus* decision has launched a website to help public sector union workers withdraw from their collective bargaining units.

The Workers Choose campaign will allow visitors to WorkersChoose.org to receive detailed information on opting out of their unions.

"For those workers who are happy to continue supporting their government unions, they also have the First Amendment right to maintain their membership in them," CEO and

President Robert Alt said in a statement. "The *Janus* decision is a win for all of our public workers, who are now respected and have a right to choose – and those choices must be honored. I'm not sure how anyone could be opposed to letting workers decide for themselves."

Voter Rolls: A day after Secretary of State Jon Husted issued a series of directives to boards of election on purging voter rolls, one of the lawmakers who hopes to replace him continued to call on him to end the process of removing voters from the rolls due to non-voting.

"This sloppy and costly purge process uses flimsy guesswork to take away people's fundamental right to vote," Rep. Kathleen Clyde (D-Kent) said in a statement. "The secretary of state should stop this harmful and discriminatory use-it-or-lose-it voter purge."

Secretary Husted has repeatedly defended the process, saying it serves to reduce lines and confusion on Election Day and is a guard against voter fraud.

Governor's Appointments

Statewide Emergency Services Internet Protocol Network Steering Committee: Chief Mark L. Martin of Massillon (Stark Co.) for a term beginning July 10 and ending Dec. 31, 2020.

Governor's Council on Juvenile Justice: Jill N. Tayfel, MFCS, PCC-S of Brecksville (Cuyahoga Co.) was reappointed for a term beginning July 10 and ending Oct. 31, 2020.

New Americans Advisory Committee: Frederick Odame, MBA of Liberty Twp. (Hamilton Co.) for a term beginning July 10 and ending May 14, 2020.

Ohio Statewide Independent Living Council: Davin Marcum of Coal Grove (Lawrence Co.) and Renee M. Wood of Toledo (Lucas Co.) for terms beginning July 10 and ending March 14, 2021.

Supplemental Agency Calendar

Thursday, July 19

~~Canceled: Statewide Independent Living Council, Embassy Suites Columbus Airport, 2886 Airport Dr., Columbus, 1 p.m.~~

Supplemental Event Planner

Wednesday, July 11

Gov. John Kasich and OBM Director Tim Keen to announce fiscal year-end deposit to 'Rainy Day' fund., 34th Fl., 30 E. Broad St., Columbus, 10 a.m.

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Senate Activity for Tuesday, July 10, 2018

PASSED

HB 34 ■ **PUBLIC NOTICES** (Hambley, S., Ryan, S.) To authorize certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and electronically instead of by certified mail, to modify the requirements for public records training for elected officials, and to allow a county prosecuting attorney to enter into a contract with a regional airport authority, port authority, or regional planning commission to be its legal adviser.

30-0

Gongwer Coverage

HB 123 ■ **LENDING LAWS** (Koehler, K., Ashford, M.) To modify the Short-Term Loan Act, to specify a minimum loan amount and duration for loans made under the Small Loan Law and General Loan Law, and to limit the authority of credit services organizations to broker extensions of credit for buyers.

21-9 (Earlier REPORTED-AMENDED)

Gongwer Coverage

HB 254 ■ **POW/MIA FLAG** (Wiggam, S.) To enact the POW/MIA Remembrance Act requiring the POW/MIA flag to be displayed at certain buildings operated by the state on Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day, and Veterans' Day.

30-0

Gongwer Coverage

SB 51 ■ **LAKE ERIE** (Skindell, M., Eklund, J.) To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.

30-0

Gongwer Coverage

REFERRED

Agriculture:

HB 522 ■ **LIQUOR PERMITTING** (Lanese, L.) To allow an outdoor refreshment area to include F liquor permit holders.

Government Oversight & Reform:

HB 139 ■ **PUBLIC DISCLOSURE** (Perales, R., Keller, C.) To eliminate the public disclosure exemption for any permanently retained record 100 years after the date of its creation, with exceptions.

Health, Human Services & Medicaid:

HB 464 ■ **STROKE PATIENTS** (Lipps, S., Antonio, N.) To provide for recognition of stroke centers and establishment of protocols for assessment, treatment, and transport to hospitals of stroke patients.

HB 541 ■ **VOLUNTEER HEALTH SERVICES** (Patterson, J., LaTourette, S.) To authorize health professionals licensed in other states to provide volunteer health services during charitable events.

SCR 25 ■ **TITLE X FUNDING** (Thomas, C., Tavares, C.) To express opposition to proposed changes in federal regulations governing the Title X National Family Planning Program and to declare support for access to all legal family planning services and related counseling.

Local Government, Public Safety & Veterans Affairs:

HB 315 ■ **DAY DESIGNATION** (Arndt, S.) To designate October 6 as "S.M.A.R.T. Parent Day."

SB 311 ■ **DAY DESIGNATION** (Hoagland, F., Williams, S.) To designate June 12 as "Women Veterans' Day."

Transportation, Commerce & Workforce:

SB 312 ■ **ROAD NAMING (Burke, D.)** To designate a portion of State Route 4 in Marion County as the "Army Cpt. Stephen J. Chaney Memorial Highway."

Ways & Means:

HB 361 ■ **TAX COMPLAINTS (Greenspan, D.)** To increase the time within which boards of revision must decide property tax complaints.

COMMITTEE HEARINGS

Finance

HB 123 ■ **LENDING LAWS (Koehler, K., Ashford, M.)** To modify the Short-Term Loan Act, to specify a minimum duration requirement for loans made under the Small Loan Law and Mortgage Loan Law, and to limit the authority of credit services organizations to broker extensions of credit for buyers.
(REPORTED-AMENDED; 7th Hearing-Possible amendments & vote)

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Daily Activity Planner for Wednesday, July 11

Legislative Committees

No legislative committees scheduled.

Agency Calendar

Veterinary Medical Licensing Board, 77 S. High St., Room 1914, Columbus, 8:30 a.m.

State Personnel Board of Review, 12th Fl., 65 E. State St., Columbus, 10 a.m.

Venture Capital Authority, 29th Fl., 77 S. High St., Columbus, 1 p.m.

Public Utilities Commission of Ohio, 180 E. Broad St., 11th Fl., Columbus, 1:30 p.m.

Event Planner

Gov. John Kasich and OBM Director Tim Keen to announce fiscal year-end deposit to 'Rainy Day' fund., 34th Fl., 30 E. Broad St., Columbus, 10 a.m.

Rep. Richard Brown (D-Canal Winchester) fundraiser, The Paddock Club, 1005 Richardson Rd., Groveport, 5:30 p.m., (Sponsor Levels: Sponsor \$250, Host \$100, Guest \$50 to Citizens for Richard Brown)

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Event Planner

Sunday, October 1

Ohio Legislative Black Caucus 50th Anniversary events, Canton, (5:15-6:15pm: Welcome Reception & Hall of Fame Tours; 6:15pm-8:15: Program & Dinner; 8:20pm-10:00pm: Live Music with the Four Keeps; 10:00pm: After Party Reception at the M-Bar)

Sen. Bob Peterson (R-Sabina) fall fest fundraiser, Peterson Farm, 5564 Grassy Branch Rd., Sabina, 4 p.m., (\$25 per Person or \$50 per Family to Peterson for Good Government)

Monday, October 2

Ohio Legislative Black Caucus 50th Anniversary events, Canton, (10:30am: Golf Outing Start (registration begins at 8:30am); 1:00pm: First Ladies Library Tour (registration begins at 12:00pm); 2:00pm: President McKinley Museum Tour (registration begins at 12:00pm); 3:00pm-4:00pm: OLBC Cookout/Reception at the National Historic Clearview Golf Course)

Lobbyist and Employer Activity & Expenditure Reports for the May-August 2017 reporting period are due

OHROC Chairman's Cup golf outing fundraiser, Virtues Golf Club, 1 Long Drive, Nashport, 9 a.m., (9:00am Registration; 10:00am Shotgun Start. Event Host: \$5,000; Event Sponsor: \$2,500; Tee Sponsor: \$1,250; Foursome: \$1,000; Individual Golfer: \$250; Reception Only: \$100 to OHROC)

Tuesday, October 3

Ohio Domestic Violence Network to recognize National Domestic Violence Awareness Month, Museum Gallery, Statehouse, Columbus, 9:30 a.m.

Wednesday, October 4

Sen. Troy Balderson (R-Zanesville) & Sen. Stephanie Kunze (R-Hilliard) fundraiser, Muirfield Village Country Club, 8715 Memorial Drive, Dublin, 8:30 a.m., (\$500 each committee to Troy Balderson for State Senate and Citizens for Stephanie Kunze)
Rep. Anne Gonzales (R-Westerville) cigar fundraiser, Lexi's, 100 E. Broad Street, Columbus, 4:30 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens for Anne Gonzales)

Thursday, October 5

Sen. Matt Huffman (R-Lima) golf outing fundraiser, Hidden Creek Golf Club, 6245 Sugar Creek Lane, Lima, 9 a.m., (9:00am Registration | 10:00am Shotgun Start. \$1,000 Event Sponsor | \$400 per Team | \$200 Tee Sponsor | \$100 per Golfer to Matt Huffman for Ohio)

Sen. Louis Terhar (R-Cincinnati) fundraiser, Schilderink residence, 9675 Cunningham Road, Cincinnati, 6 p.m., (\$2,500 Event Sponsor | \$1,000 Sponsor | \$500 Host | \$250 Couple | \$200 Individual to Friends of Lou Terhar)

Sunday, October 8

Sen. Steve Wilson (R-Maineville) family picnic, Warren County Armco Park, 1223 OH-741, Lebanon, 1 p.m.
Republican gubernatorial candidate forum, Genoa Baptist Church, 7562 Lewis Center Rd., Westerville, 7 p.m., (Sponsored by Citizens for Community Values and Salem Media of Ohio)

Tuesday, October 10

Rep. Niraj Antani (R-Miamisburg) fundraiser, Oliver's, 26 N. High Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens for Niraj Antani)
Rep. Jeff Rezabek (R-Clayton) and Rep. Nathan Manning (R-North Ridgeville) fundraiser, Ringside, 19 N. Pearl Street, Columbus, 5 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens for Rezabek and/or Manning for Ohio)
Sen. Matt Huffman (R-Lima) fundraiser, Athletic Club of Columbus, Gold Room, 136 E. Broad St., Columbus, 5 p.m., (\$2,500 Event Chair | \$1000 Event Host | \$500 Event Sponsor | \$350 Individual to Matt Huffman for Ohio)
Sen. Kevin Bacon (R-Columbus), Sen. Troy Balderson (R-Zanesville) & Sen. Joe Uecker (R-Loveland) fundraiser, Athletic Club of Columbus, Lounge, 136 E. Broad St., Columbus, 5 p.m., (\$2,500 Event Chair | \$1,000 Event Host | \$500 Event Sponsor | \$350 Individual to Citizens for Kevin Bacon or The Committee to Elect Joe Uecker)
Sen. Matt Dolan (R-Chagrin Falls) and Sen. Jay Hottinger (R-Newark) fundraiser, Athletic Club of Columbus, Parlors A&B, 136 E. Broad St., Columbus, 5 p.m., (\$2,500 Event Chair | \$1,000 Event Host | \$500 Event Sponsor | \$350 Individual to Friends of Matt Dolan Or Citizens for Hottinger)

Wednesday, October 11

Rep. Thomas West (D-Canton) fundraiser, Dempsey's, 346 S. High St., Columbus, 8:30 a.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Team West)
Rep. Terry Johnson (R-McDermott) fundraiser, Oliver's, 26 N. High Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Terry Johnson for State Rep)
Rep. Steve Huffman (R-Tipp City) fundraiser, OHROC, 21 W. Broad Street, Floor 7, Columbus, 12 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Steve Huffman for State Rep)
Rep. Ron Young (R-Leroy Township) fundraiser, Athletic Club of Columbus - Parlor D, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 Friends of Ron Young)
Rep. Tim Ginter (R-Salem) fundraiser, Athletic Club of Columbus - Gold Room, 136 E. Broad Street, Columbus, 5 p.m., (Special Guest Former Speaker Bill Batchelder. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Tim Ginter for State Representative)

House Minority Leader Fred Strahorn (D-Dayton) fundraiser, Elevator Brewery and Draught Haus, 161 N. High St., Columbus, 5 p.m., (Sponsor levels: Sponsor: \$2,500, Host: \$1,000, Guest: \$500, Friend: \$350 to Committee to Elect Fred Strahorn)

Sen. John Eklund (R-Chardon) fundraiser, Lexi's on Third, 100 E. Broad St., Columbus, 5 p.m., (\$2,500 Event Chair | \$1,000 Event Host | \$500 Event Sponsor | \$350 Individual to Friends of John Eklund)

Sen. Lou Terhar (R-Cincinnati) fundraiser, Fleming residence, 2374 Brixton Road, Columbus, 5:30 p.m., (\$2,500 Event Sponsor | \$1,000 Sponsor | \$500 Host | \$250 Couple | \$200 Individual to Friends of Lou Terhar)

Friday, October 13

OSBA Law & Media Conference, Ohio State Bar Association, 1700 Lake Shore Dr., Columbus, 9:30 a.m., (Registration at 8:30 a.m. For more information contact Halle Malcomb, hmalcomb@ohiobar.org)

Tuesday, October 17

Republican Senate Campaign Committee pig roast fundraiser, Land Grant Brewery, 424 W. Town St., Columbus, 5 p.m., (\$10,000 Whole Hog Sponsor | \$5,000 Half Hog Sponsor | \$2,500 Loin Sponsor | \$1000 Bacon Sponsor | \$500 per Attendee to RSCC)

Rep. Michael Sheehy (D-Oregon) fundraiser, Club 185, 185 E Livingston Ave, Columbus, 5:30 p.m., (Sponsor levels: Sponsor \$1,000, Host \$500, Friend \$350 to Committee to Elect Michael Sheehy)

Rep. Adam Miller (D-Columbus) fundraiser, Capital Club, 41 S. High St., Columbus, 5:30 p.m., (Sponsor \$1,000, Supporter \$500, Attendee \$250 to Miller for Ohio)

Wednesday, October 18

Sen. Peggy Lehner (R-Kettering) fundraiser, Athletic Club of Columbus, Gold Room, 136 E. Broad St., Columbus, 7:30 a.m., (\$2500 Event Chair | \$1000 Event Host | \$500 Event Sponsor | \$350 Individual to Citizens for Lehner)

Sen. Sandra Williams (D-Cleveland) fundraiser, Einstein's, 41 S High Street, Columbus, 7:30 a.m., (Platinum Sponsor - \$1,000; Gold Sponsor - \$500 or Suggested Contribution - \$350 to Friends of Sandra Williams)

Rep. Steve Arndt (R-Port Clinton) fundraiser, deNOVO, 150 S. High Street, Columbus, 11:30 a.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends for Steve Arndt)

Rep. Kathleen Clyde (D-Kent) fundraiser, Club 185, 185 E. Livingston Ave., Columbus, 5 p.m., (Gold Sponsor \$2,500, Silver Sponsor \$1,000, Bronze Sponsor \$500, Supporter \$250 to Kathleen Clyde Committee)

Rep. Glenn Holmes (D-McDonald) fundraiser, Dempsey's, 346 S. High St., Columbus, 5:30 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Committee to Elect Glenn Holmes)

Sen. Stephanie Kunze (R-Hilliard) fundraiser, Scioto Country Club, 2196 Riverside Dr., Columbus, 5:30 p.m., (Special Guest: Senate President Larry Obhof. Event

Sponsor \$1000, Event Host \$500, \$150 per couple, \$100 per individual to Citizens for Stephanie Kunze)

Thursday, October 19

Rep. Teresa Fedor (D-Toledo) fundraiser, Maumee Bay Brew Pub, 27 Broadway Street, Toledo, 4:30 p.m., (Friend: \$250; Host: \$500; PAC: \$1,000 to Citizens with Fedor)

Sen. Bill Beagle (R-Tipp City) shooting fundraiser, Vandalia Range and Armory, 100 Corp Center Drive, Vandalia, 5:30 p.m., (\$1,000 Event Sponsor; \$500 Lane Sponsor; \$100 per Person; \$50 Dinner only to Citizens for Bill Beagle)

Tuesday, October 24

Rep. Ryan Smith (R-Bidwell) fundraiser, Athletic Club of Columbus - Lounge, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$10,000; Sponsor: \$5,000; Host: \$2,500; Patron: \$1,000 to Friends of Ryan Smith)

Rep. Jack Cera (D-Bellaire) & Rep. Nick Celebrezze (D-Parma) fundraiser, Gresso's, 961 S. High St., Columbus, 7 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Friends of Nicholas J. Celebrezze and Jack Cera for State Representative)

Wednesday, October 25

Rep. Sarah LaTourette (R-Chesterland) and Rep. Theresa Gavarone (R-Bowling Green) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to LaTourette for Ohio and/or Citizens for Gavarone)

Rep. Teresa Fedor (D-Toledo) fundraiser, The Lounge at Latitude 41, Renaissance Hotel, 50 North 3rd Street, Columbus, 5:30 p.m., (Friend: \$250; Host: \$500; PAC: \$1,000 to Citizens with Fedor)

Thursday, October 26

Rep. Glenn Holmes (D-McDonald) fundraiser, Cimenero's Banquet Center, 123 N. Main St., Niles, 5 p.m., (Victory Sponsor \$1,400, Touchdown Sponsor \$700, Field Goal Sponsor \$300, Individual Tickets \$50 to Committee to Elect Glenn Holmes)

Sunday, October 29

Democratic gubernatorial debate, Greater Columbus Convention Center, 400 N. High St., Columbus

Ohio Democratic Party state dinner, Greater Columbus Convention Center, 400 N. High St., Columbus, (Featured speaker: Virginia Gov. Terry McAuliffe)

Tuesday, October 31

Rep. John Rogers (D-Mentor on the Lake) & Rep. John Patterson (D-Jefferson) fundraiser, Club 185, 185 E Livingston Ave, Columbus, 5:30 p.m., (Sponsor \$1,000,

Host \$500, Friend \$350 to Friends of Rogers and Committee to Elect John Patterson)

Wednesday, November 1

Rep. Emilia Sykes (D-Akron) & Sen. Vernon Sykes (D-Akron) fundraiser, Einstein's Bros. Bagels, 41 S. High St., Columbus, 8 a.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Emilia Sykes Campaign and Sykes for Office)

Rep. Craig Riedel (R-Defiance) and Rep. Kristina Roegner (R-Hudson) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens to Elect Craig Riedel and/or Kristina Daley Roegner for Ohio)

Rep. Dave Greenspan (R-Westlake) fundraiser, Oliver's, 26 N. High Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Dave Greenspan)

Rep. Bill Seitz (R-Cincinnati) and Rep. Bill Blessing (R-Cincinnati) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,000; Sponsor: \$1,000; Host: \$500; Individual: \$350 to Seitz for Ohio and/or Citizens for Blessing)

Rep. Bernadine Kent (D-Columbus) fundraiser, Lincoln Cafe, 740 E. Long St., Columbus, 5:30 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Kent for Ohio)

Thursday, November 2

Rep. Steve Hambley (R-Medina) fundraiser, High & Low Winery, 588 Medina Road, Wadsworth, 6 p.m., (Special Guest President Larry Obhof. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Hambley for House Committee)

Wednesday, November 8

Rep. Mike Duffey (R-Worthington) and Rep. Laura Lanese (R-Grove City) fundraiser, OHROC, 21 W. Broad Street, Floor 7, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 Citizens for Duffey and/or Lanese for Ohio)
Sen. Cliff Hite (R-Findlay) fundraiser, Club 185, 185 E. Livingston Ave., Columbus, 5:30 p.m., (\$2,500 Chair | \$1,000 Host | \$500 Sponsor | \$350 Attendee to The Committee to Elect Cliff Hite)

Tuesday, November 28

Rep. Scott Ryan (R-Newark) fundraiser, Pub Mahone, 31 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens for Scott Ryan)

Wednesday, November 29

Rep. Michele LePore-Hagan (D-Youngstown) fundraiser, Einstein Bros. Bagels, 41 S High Street, Columbus, 8 a.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Michele Lepore-Hagan for State Representative)

Rep. Scott Lipps (R-Franklin) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Scott Lipps)

Ohio House Republican Organizing Committee fundraiser, Athletic Club of Columbus - Gold Room, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,500; Host: \$1,000; Sponsor: \$500 to OHROC)

Rep. Jim Butler (R-Oakwood) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Butler for Ohio)

Thursday, November 30

Rep. Derek Merrin (R-Monclova Township) fundraiser, OHROC, 21 W. Broad Street, Floor 7, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Derek Merrin)

Tuesday, December 5

Rep. Gary Scherer (R-Circleville) fundraiser, Ringside, 19 N. Pearl Street, Columbus, 5 p.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Gary Scherer)

Wednesday, December 6

Rep. Kirk Schuring (R-Canton) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,500; Host: \$1,000; Sponsor: \$500 to Citizens for Schuring Committee)

Wednesday, February 28

Ohio Cable Telecommunications Association Legislative Luncheon, Renaissance Hotel, 50 N. 3rd St., Columbus, 12 p.m.

Monday, June 4

Ohio Cable Telecommunications Association Golf Outing, The Lakes, 6740 Worthington Rd., Westerville

Ohio Cable Telecommunications Association Golf Outing, The Lakes, 6740 Worthington Rd., Westerville

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Volume #86, Report #189 -- Friday, September 29, 2017

Grading The State Report Card: Experts, Policy Makers Weigh In On How Ohio Assesses K-12 Education

From confusion and frustration to hopefulness and enlightenment, the responses to state report card grades released this month have run the gamut.

Schools and parents around the state have largely dismissed the rankings, which have dropped significantly since new standards were put in place a few years ago. Many have publicly criticized the grades, saying they're not rooted in reliable methods or just plain don't make sense.

A handful of education researchers and stakeholder groups, meanwhile, have released reports that rely on the report card data and tout its value in tracking trends. The analyses compare charter and traditional schools and gauge, among other things, how disadvantaged students are stacking up to their more privileged peers.

But, like them or not, report cards are here to stay. New federal K-12 laws continue to require states to assess students and schools as well as publish annual ratings.

So how then do policymakers and the K-12 community put an end to the report card frenzy that's become an annual occurrence since the state upped learning standards and moved to an A-F grading scale?

For some, the answer is to change how the bevy of school and testing data is presented.

Push For Change: Rep. Mike Duffey (R-Worthington) said he plans to introduce legislation and bring together a stakeholder group to overhaul report cards so that they no longer grade districts, but instead simply present information.

He said the goal is to fairly provide details of how schools are doing at educating students and quiet public distrust surrounding the current grading system.

"There seems to be an emerging consensus among superintendents and school boards of education and I think legislators are picking this up from the community and parents and from their own experience that report cards have been too volatile," Rep. Duffey said.

More than a dozen other states have instituted an A-F grading scale over the last few years. Like Ohio, many have put off handing out one overall grade to each district in an effort to ease into the change.

However, a handful may never get to that point in their reporting because of backlash to the grades. West Virginia, Alabama and Texas are just a few states debating how to move forward, according to reports.

Rep. Duffey said the public outcry in Ohio is already loud enough to require change, proving that parents and students think their schools are doing better than the report cards reflect.

Many districts, including wealthy suburban districts that were previously accustomed to getting As, have received Fs in a handful of categories over the past two years despite overall scores improving this year. Urban districts that have retooled their entire curricula and cultures say their progress isn't translating to higher report card scores.

"Parents are by and large siding with their school districts over the state, which means the state report card does not have the public's trust," he said. "When it doesn't have the public's trust, it fails to have value as a tool for the state."

The progress measure of the report card is the most-often challenged of the six graded components.

Rep. Andy Brenner (R-Powell), who chairs the House Education Committee, said its calculation needs changed because it is a zero-sum ranking, meaning districts can only score better each year if they're making more progress in relation to the progress other schools have made.

For example, students at Olentangy Local Schools saw growth on average, but their progress component score was an F because there wasn't as much growth as experienced by students at Rocky River City Schools, which received an A, he said.

"If everybody else is doing OK, then they can fall off and I'm not really sure that that's what we should do," Rep. Brenner said.

"I think we need to make sure that we're giving the data to the schools and districts so they understand what they need to do to improve the districts if they're capable," and the current grading formula doesn't always allow that, he said.

Data analyst Howard Fleeter with the Ohio Education Policy Institute said he's supportive of the data that's gathered to inform the progress component, but also suggested there could be a better way to grade it.

"When I was teaching, I thought that if every student was worthy of an A, every student should get an A," he said.

Having closely analyzed report card data, Mr. Fleeter said he's grateful for the wealth of information Ohio collects, which is much more than other states.

Over the years, it's helped him find data trends that can predict how students will perform in the future, reveal persistent learning gaps rooted in poverty, and determine how much it costs to educate different types of students, among other things, he said.

However, when it comes to how the state compiles the data to determine grades, Mr. Fleeter said there'd be no love lost on his part if the state threw out its A-F scale.

"I think that the data that is on the report cards is valuable. I am less of a fan of the actual letter grades," he said.

"I think one way you could defend the letter grades is to say, 'There is so much data that's out there. That regular person needs some sort of a shorthand way to make sense out of it and that's what the letter grades do.' The problem is that the letter grades also lead to some shame."

When the learning standards weren't as stringent and the A-F scale wasn't yet introduced, nearly 300 districts received the highest rating of Excellent on state report cards, according to Department of Education records.

Now that many of those same schools are receiving low marks on report cards, their morale may be down, Mr. Fleeter said.

Rep. Brenner suggested that the change in report card rankings could also have a negative economic impact on the state. He said it could signal to businesses looking to move to Ohio that students are less prepared than they were a few years ago when grades were good, even though districts, parents and many lawmakers don't feel that's the case.

"If you get Fs on the report card, would a major company like Amazon take a look at that?" he questioned.

Sen. Peggy Lehner (R-Kettering) said she'd be willing to take legislative action to change report cards, which is the only way modifications can be made. It has to be under the right circumstances, though, she said.

"I'm always open to looking to make the report card a better vehicle that gives us more accurate information and if that's the goal, yes. If the goal is we don't like the results, so let's get rid of the report card, I'd be much more concerned, frankly," said Sen. Lehner, who chairs the Senate Education Committee.

"We need to make sure that the report card is an accurate tool of assessment, but we do need to make sure that we also assess."

Reframing Report Cards: In an effort to stem the wave of concerns that come with every report card release, Superintendent of Public Instruction Paolo DeMaria has continually stressed that viewers should look outside the box.

The Ohio School Boards Association advises its members to do the same, said Damon Asbury, the group's director of legislative services. Board members are also encouraged to highlight their districts' non-academic accomplishments.

"It's an important measure, it tells us a lot of information, but it's not the only measure of how to judge your school district and its progress," he said of report cards.

To aid in the push to reshape thinking, ODE this year introduced a section on the individual grade card pages where districts can link to websites highlighting their successes.

Although the aim has been to reframe the general public conversation about report cards, superintendent DeMaria said the importance of the data they provide should still be at the forefront for policy makers.

"It does not paint a complete picture of what is happening in our schools and districts across the state, but it does paint a picture of what's happening academically to a certain extent and it is something that we should pay attention to," he said.

In a presentation before the Speaker's Task Force on Education and Poverty, he said report card results show a clear connection between economically disadvantaged students and poor academic outcomes. (See Gongwer Ohio Report, September 28, 2017)

They also show that a few schools with high concentrations of disadvantaged students are also high achieving, meaning that those students can learn under the right circumstances, he said.

"It allows us then to dig into this phenomenon that we're here to talk about and that is understanding the achievement gaps and acknowledging them," Superintendent DeMaria said of the assessment results displayed through report cards.

Sen. Lehner said there's also a lot that can be learned from new report card indicators showing how Ohio students scored on the ACT and SAT, which are included in the Prepared for Success measure.

The scores were "abysmally low and seem to track pretty well with some of the other data that we're seeing in the report card and that should give a lot of people pause that the report card, as clumsy as it may be, as lengthy as it may be, that it actually is telling us something that we need to really sit up and pay attention to," she said.

When the first report cards were released about two decades ago, they only showed what percentage of students were proficient on new state exams in core subjects, how many students were graduating and school attendance rates.

The report cards now include six components, ten measures and a handful of ungraded data such as financial information. It takes into account student scores on more than a dozen standardized tests.

The state's data collection to assess schools has come a long way, Mr. Fleeter said. So while report cards shouldn't serve as the sole arbiter of whether schools are preparing students for the future, it wouldn't be wise to dismiss them.

"Now we have the ability to disaggregate the data and look at different types of students and you can compare them and you really can understand what's behind things and where the problems are to a greater degree," he said. "People tend to not think about it, but we are lucky that we have all this information that's out there because we can understand better what we're doing well and what we're not as a state."

Governor Candidates Tout Qualifications At GOP Central Committee

Three of Ohio's four Republican gubernatorial candidates on Friday worked to sway a room full of party leaders on why they should top the ballot heading into the 2018 election.

Secretary of State Jon Husted, U.S. Rep. Jim Renacci and Lt. Gov. Mary Taylor each spoke before the GOP State Central Committee at a Columbus-area convention center. Attorney General Mike DeWine, also a candidate for the top executive office, was unable to attend.

Although Ohio Republican Party chairwoman Jane Timken remains adamant the party will not endorse to avoid tipping the primary scales, each statewide GOP contender was given the chance to appear before the committee.

Mr. Husted kicked off the remarks, touting his endorsements from pro-gun groups and his outreach through ten satellite call centers that have already made more than 20,000 calls.

"We outraised all candidates for this race," Mr. Husted said. "And you haven't seen anything yet. We're going to continue to build on that momentum and I'm really excited about it."

Emphasizing his efforts to streamline the business filing process and make his office self-sufficient, he positioned himself as a candidate who will follow through on his promises and thereby restore the faith of jaded voters who are frustrated with the system.

"I believe I can do the best job for you, that I can be the voice of the Republican party and the voice of the State of Ohio that will bring new ideas," Mr. Husted said.

Rep. Renacci, meanwhile, held true to his campaign strategy of painting himself as a Donald Trump-style outsider surrounded by candidates representing the status quo.

He struck a more conciliatory tone than his first television ad, however, giving some praise to Gov. John Kasich and stating that the party has "strong candidates." His TV spot released Thursday, the first of the campaign, blasted his three primary opponents as "Columbus fat cats."

Rep. Renacci described his background as a business owner who has created jobs and said voters are looking for a different type of candidate at the ballot.

"That's who I am," he said. "I'm an individual who hasn't spent my entire life in politics. That's the direction we need to take -- a little bit different vision."

Lt. Gov. Taylor emphasized her past election performance, including her status as the only Republican to win statewide office during the 2006 election when Democrats swept into office.

"We need a candidate in the general election who can win in November no matter what the political landscape looks like," she said. "And I win elections. Period."

She highlighted her tax and healthcare proposals, including her desire to eliminate Medicaid expansion, and pointed to her leadership of the Common Sense Initiative as a testament to her desire to curb government regulations.

Without naming names, she also seemed to downplay her rivals' fundraising strength and the advantage of Mr. DeWine's name recognition.

"People in our state, they choose our leaders," she said. "If money and a family name was all that mattered in races, Jeb Bush would be our nominee and Hillary Clinton would be our president today."

David Pepper, Ohio Democratic Party's chairman, in response called the Republican's primary gubernatorial race "one big race to the right."

"The Republican candidates are focused on nasty attacks against one another, while our Democratic candidates are focused on addressing the concerns of voters," Mr. Pepper said. "We've had 57 straight months of job growth trailing the national average, we're struggling to deal with the nation's worst opioid crisis and our public school system has fallen from fifth in the nation to 22nd. The Republican status quo isn't working for Ohio, and Democrats will represent change in 2018."

Other candidates seeking statewide office that addressed the group include Treasurer Josh Mandel, a U.S. Senate hopeful, Rep. Keith Faber (R-Celina), who's running for state auditor, and Rep. Robert Sprague (R-Findlay), a state treasurer candidate.

Endorsements: The group's endorsement policy review committee also recommended the party take no stance on Issue 1 -- the Ohio Crime Victims Bill of Rights -- or Issue 2 - the Ohio Drug Price Relief Act. The full committee accepted that recommendation with no discussion.

The Republican committee did officially endorse a pair of Ohio Supreme Court candidates: Judge Mary DeGenaro and Judge Craig Baldwin.

Judge DeGenaro, of the Seventh District Court of Appeals, and Judge Baldwin, of the Fifth District Court of Appeals, are running for seats occupied by age-limited Justices Terrence O'Donnell and Bill O'Neil.

In other business, the committee also appointed Katie DeLand to the 12th District seat formerly held by Becky Engel.

Portman, Brown Recommend Two Federal District Court Nominees

The state's two U.S. senators on Friday announced recommendations to fill two seats on the federal bench - and one could mean a change in Gov. John Kasich's cabinet.

U.S. Sen. Rob Portman (R-Terrace Park) and U.S. Sen. Sherrod Brown (D-Cleveland) have recommended Bureau of Workers' Compensation Administrator/CEO Sarah Morrison to fill a seat on the U.S. District Court of the Southern District of Ohio soon to be vacated by retiring Judge Thomas Rose.

The lawmakers also forwarded to the White House a recommendation that Fourth District Court of Appeals Judge Matt McFarland fill the seat on the same court vacated by Judge Gregory Frost.

"I am honored to be considered for the position of federal district judge, and I sincerely appreciate the support of Senators Portman and Brown," Ms. Morrison said in a statement. "As the approval process moves forward, I remain committed to serving Ohio's employers and injured workers at the Bureau of Workers' Compensation."

Sen. Portman said Ms. Morrison "enjoys sweeping support for this seat because of her breadth of experience in the public and private sectors, including her time as CEO of Ohio's Bureau of Workers Compensation."

Ms. Morrison, who would serve from Columbus, has led the BWC since May 2016 after joining the bureau in November 2012. Prior to that, she was a partner at Taft Stettinius & Hollister, LLP in Columbus.

She has a law degree from Capital University.

Judge McFarland, who would serve from the court in Dayton, was elected to the state appellate court in 2004 and reelected in 2010 and 2016. Prior to that, he served as a magistrate in the Scioto County Common Pleas Court Probate/Juvenile Division. He also served as an assistant prosecutor in Scioto and Licking counties and as special counsel in the attorney general's office.

He also has a law degree from Capital University.

"It is truly an honor to continue to serve the citizens of Ohio and if nominated by the president and confirmed by the Senate, I will work tirelessly to make Ohio proud in the administration of justice," he said.

Sen. Portman said Judge McFarland has "been a dedicated public servant in the state court of appeals."

"His esteemed reputation is well deserved and I am confident he will continue to distinguished service on the bench," he said.

Sen. Brown said in both cases he was proud to join his colleague in a bipartisan process and thanked both Ms. Morrison and Judge McFarland for their willingness to serve.

Both were recommended to the senators by a bipartisan advisory committee.

The recommendations will be vetted by the White House and the U.S. Senate Judiciary Committee before being considered by the upper chamber.

Senate Weighs Healthy Ohio Proposal, Looks At Submission Options

The Healthy Ohio Medicaid waiver proposal appears to be getting a new look by the Senate, but it's not clear if the chamber will vote to override Gov. John Kasich's veto or approach the effort another way.

The proposal, which was included in the previous budget and rejected by the federal Centers for Medicare and Medicaid Services, was included again in the current budget (HB 49) but vetoed by the governor.

The waiver has drawn questions as to whether it could gain federal approval due to the lack of flexibility the legislation would give the state in negotiating with federal regulators. Nevertheless, some officials say they are optimistic that the Trump administration would be more receptive to the plan than President Barack Obama's.

"I have had positive conversations with the administration in Washington about the Healthy Ohio waiver," Senate President Larry Obhof (R-Medina) said this week. "I look forward to additional conversations about that, whether the language that is currently pending in the override is exactly right or not, or if there's changes that we could make to that as separate legislation."

Sen. Obhof said the question of whether or not the Senate takes up the proposal would hinge on the continued debate over the Affordable Care Act at the federal level.

"I do anticipate that if the Medicaid expansion is here for the next few months, at some point we're going to re-evaluate the Healthy Ohio plan and whether to move ahead with the override or introduce additional legislation," he said.

The waiver request would allow the state to have certain Medicaid enrollees pay into modified health savings accounts, which would be used to cover co-pays. The state would also contribute to the accounts, with that money acting as a deductible. People who move off of Medicaid would then be able to use the money left over to cover insurance and other expenses.

Some, including members of a Senate committee that discussed waivers this week, have said the current proposal might be too detailed and prescriptive, and would not allow the state to negotiate changes with CMS to earn approval. (See Gongwer Ohio Report, September 26, 2017)

In his veto message, Gov. Kasich said the proposal has already been rejected by the federal government once.

"The Administration shares the goal of expanding Ohio's flexibility in managing our Medicaid programs, and is committed to working with the General Assembly to seek achievable solutions that would accomplish this goal," he wrote. "Requiring Medicaid to seek an identical waiver for the Healthy Ohio Program would be duplicative and an ill-advised use of Medicaid resources."

Rep. Jim Butler (R-Oakwood), one of the architects of the proposal, said the state is still able to negotiate changes with CMS despite how prescriptive it is in code.

"In terms of flexibility in negotiations, there is absolutely nothing in statute that would prohibit changes being made and then being ratified by the legislature," he said in an interview.

Rep. Butler said the Senate should follow the House's lead and vote to override the veto. He said the intent was never to have the administration go to the federal government and say "take it or leave it" with what was passed by the legislature. Any changes requested by CMS could then be approved by the General Assembly.

"Anything to the contrary, I think, is an excuse for not submitting a waiver that would have meaning for our health care system and truly control health care costs," he said.

Abortion Totals Continued To Decline In 2016, State Reports

The number of abortions in Ohio continued its more than decade-long decline in 2016, falling to just above 20,000, according to figures released Friday.

The Department of Health reported a total of 20,672 abortions in the state in 2016, down about 1% from the prior year's total of 20,976.

Of those, 19,543 were obtained by Ohio residents. Since 2001, the annual decline has averaged about 900 per year, ODH said.

The abortion rate was 8.9 per 1,000 resident women ages 15-44, which was unchanged from 2015, the agency reported. There were 142 abortions by Ohio residents per 1,000 live births.

The number of abortions, which has been tracked since 1976, peaked at more than 45,000 in 1982.

Ohio Right to Life credited the decline to anti-abortion policies enacted at the state level.

"This report is further proof of how successful the pro-life movement has been in Ohio" Mike Gonidakis, the group's president, said in a statement. "This past year alone, we saw 304 lives saved from the pain and suffering of abortion. We continue to advance groundbreaking legislation to protect the unborn, and we thank Governor John Kasich and the Ohio General Assembly for their role in promoting a culture of life in Ohio. By enacting common sense and life-saving initiatives Ohio is protecting both mothers and their babies."

The group touted legislation it's currently pushing for in the General Assembly, including bills to ban abortions due to a Down syndrome diagnosis (HB 214, SB 164) and to ban "dismemberment" abortions (SB 145).

"The historic low of abortions reported today indicates that the culture of life we've strived for is becoming a reality," Mr. Gonidakis said. "That being said, Ohio Right to Life is whole-heartedly committed to fighting for the sanctity of human life, until the Abortion Report is unnecessary because there are no more abortions committed in Ohio."

NARAL Pro-Choice Ohio Deputy Director Jaime Miracle pointed to an increase in the number of non-surgical abortions, from 1,195 in 2015 to 3,818 in 2016. She said that showed the effects of a change by the U.S. Food and Drug Administration to allow for a one-pill dosage of a medication used in non-surgical abortions.

"The real story with this year's report is that Ohio women are accessing more affordable medication abortion at a rate closer to before Ohio law required physicians to use an outdated, less effective, more expensive protocol," she said in a statement. "When health care policy is shaped by science, not politics, women win. This report shows that the new FDA protocol allows women to access the health care they need and choose the abortion method that is best for them."

Ms. Miracle said Ohio's nine facilities were able to provide safe, legal and affordable abortions to more than 20,000 women in Ohio.

"Unfortunately, Governor John Kasich and his band of usual suspects have wasted the taxpayers' time and money in pushing illegal and immoral tactics designed to block access to abortion clinics," she said. "Since taking office, Governor Kasich has signed 18 restrictions limiting access to reproductive healthcare in Ohio. Everyone deserves access to safe, affordable reproductive health care, including abortion, in their communities and we will continue to fight to ensure this is the reality in Ohio."

Home Care Touted As Alzheimer's Dementia Option; Commerce Publicizes Medical Pot License Applicants

People suffering from dementia can receive support in their homes, allowing them to stay out of nursing facilities and assisted living longer, the House Speaker's Task Force on Alzheimer's and Dementia was told this week.

Joe Russell, executive director of the Ohio Council for Home Care and Hospice, told the task force that providing care for people in their own homes and communities is a quality of life issue.

Family caregivers often face a stressful and constant task of looking after loved ones with Alzheimer's and dementia, he said. Providing scheduled respite services and other in-home services can ease the burden on family members without them having to turn to institutional facilities.

Mr. Russell said the Department of Aging has explored a shared living service under the PASSPORT Medicaid waiver, which would allow a live-in caregiver to provide support in the senior's home. He said his group supports the concept but was concerned about the proposed reimbursement rates.

He said the state could also look at programs to allow for 24-hour in-home care for people with limited family supports. That could include a waiver that allows for personal care, homemaking and companion services provided by a live-in provider supplemented by home care aides in shifts, and monitoring technology.

"In the long run, this system would most likely be less costly than institutional care as well as provide an environment that is familiar and stable for the individual to help them remain part of their community for as long as their health allows them to do so," he said in testimony. "This arrangement would allow the individual to maintain their daily routines that are vital to their quality of life and overall health, as well as make it easier for interaction with family and friends in their community."

The task force also heard from Susan Dickey, who works with the Greater Cincinnati Area Chapter of the Alzheimer's Association. She discussed practice recommendations as part of the association's Quality Care Campaign.

"In the long run, this system would most likely be less costly than institutional care as well as provide an environment that is familiar and stable for the individual to help them remain part of their community for as long as their health allows them to do so," she said in prepared testimony. "This arrangement would allow the individual to maintain their daily routines that are vital to their quality of life and overall health, as well as make it easier for interaction with family and friends in their community."

She said the recommendations could be used as a foundation for evaluating clinical outcomes for care in the state.

Medical Marijuana Updates: The Department of Commerce Friday released information from the applications for cultivator licenses. The business entity and contact information forms for the 185 applicants for those licenses are now available online.

The DOC anticipates awarding cultivator licenses in November.

Earlier this week, the DOC announced that two universities - Central State University and Hocking College - had applied for laboratory applications. The department said it would accept applications from private testing laboratories between Nov. 27 and Dec. 8.

Addiction Recovery Advocates Rally; State Awards Behavioral Health Grants...

Advocates in the fight against addiction gathered at the Statehouse Friday in the annual Rally for Recovery, emphasizing the importance of family and community members in supporting people battling substance use disorder.

The event hosted by Ohio Citizen Advocates for Addiction Recovery featured advocacy groups and providers offering information about social supports for people with addiction. Those who received awards included Gov. John Kasich, who was recognized with the Recovery Ally Award for his work promoting policy to fight drug addiction and expanding Medicaid.

Tracy Plouck, director of the Department of Mental Health and Addiction Services, said the rally was a way to demonstrate the importance of supporting people battling substance abuse.

"This is an excellent opportunity to raise awareness about how many people around our state are actually living in recovery," she said in an interview. "They're in all neighborhoods, all communities, and recovery is possible. I think this is an opportunity to reduce stigma and show that it isn't just individuals who are living in recovery. It's families, it's neighbors, it's employers, everybody can come together and provide support."

Director Plouck said community supports are essential in helping people who start down the path to recovery stay there.

"Clinical services are increasingly available because of the Medicaid expansion and the changes that have occurred in the last few years, but the availability of different recovery supports is equally important, really," she said. "You can connect with sobriety, but you need supports in the community, you need to not feel isolated in order to sustain that recovery."

Speakers included Joe Smith, a father of three daughters who suffer from addiction, who said recovery takes more than one person.

"It takes the community to recover," he said. "Each one of us who recovers helps facilitate the recovery of others."

Behavioral Health Grants: ODMHAS announced \$6 million in grants this week for community mental health and addiction service providers. The funding was awarded on a first-come, first-served basis to certified providers who intended to initiate or expand workforce capacity through training, tuition reimbursement and loan repayment programs.

"Ohio, like the rest of the nation is experiencing challenges to recruit, retain and support, on a long term basis, our existing workforce in community behavioral health agencies," Director Plouck said in a statement. "These grants represent another step forward as we work collectively to build a highly-qualified workforce and significantly increase system capacity at a time when communities continue to face serious challenges with opioid addiction and mental illness."

The department sent award notices to 61 providers across the state, who were each eligible for one-time funding up to \$100,000.

Pharmacy Grant: The State Board of Pharmacy this week also announced it received a grant worth nearly \$400,000 from the U.S. Department of Justice to fund a two-year pre-criminal intervention program to deal with prescription drug abuse.

The program will use data from the Ohio Automated Rx Reporting System to identify signs of prescription drug abuse and connect those people with drug treatment or other support services.

"The goal of the program is to prevent addicted individuals from entering the criminal justice system," Pharmacy Board Executive Director Steven Schierholt said. "By engaging early, we can direct individuals to treatment before they turn to illicit, and more potent, drugs such as heroin or fentanyl."

High Court Clarifies Record Sealing Law; Buckeye Institute Joins In Public Sector Union Case; Ohio Professor Nominated For Federal Judgeship...

A trial court is under no obligation to wait until the statute of limitations expires to seal the records in a case dismissed without prejudice, the Ohio Supreme Court ruled.

The decision authored by Justice Terrence O'Donnell resolves a conflict between the Fifth District Court of Appeals and the Eighth District Court of Appeals.

"Had the legislature intended for the applicable statute of limitations in a case dismissed without prejudice to expire before a trial court can seal a record under R.C. 2953.52(B)(4), it could have used the language it did in R.C. 2953.52(B)(3) regarding applications to seal records of DNA specimens. But it did not do so," he wrote.

The conflict was certified after James Dye of Pickerington had five misdemeanor charges against him dismissed without prejudice in the Fairfield County Municipal Court. He unsuccessfully sought to have the dismissal sealed by the trial court, a decision that was upheld by the Fifth District Court of Appeals, the high court reported.

Mr. Dye argued that both courts erred in determining that he was not eligible to have the records sealed because the statute of limitations had not expired.

The state, like Mr. Dye, argued that the statute is unambiguous. However, it said the language clearly makes him ineligible to have his record sealed until the statute of limitations expires.

Justice O'Donnell was joined in his opinion by five of his fellow members of the court, while Chief Justice Maureen O'Connor concurred in judgement only.

Union Case: The Buckeye Institute has joined a legal battle that could have major implications for public sector unions.

The group filed an amicus brief in the case of *Janus v. AFSCME*, which is currently before the U.S. Supreme Court.

Mark Janus, a child support specialist in Illinois, argues that being forced to pay agencies fees after opting out of his collective bargaining unit is a violation of his First Amendment rights.

"We are pleased that the Supreme Court will take up this crucial case to protect the First Amendment rights of public employees," President and CEO Robert Alt said. "Forcing employees to pay for speech with which they disagree and forcing them to pay fees to a union in order to keep their jobs is unjust and unconstitutional. We are confident that Mr. Janus will prevail and that the court will rule in favor of the First Amendment rights of all public employees."

Federal Judgeship: President Donald Trump has nominated Ryan T. Holte to serve on the bench of the U.S. Court of Federal Claims.

Mr. Holte currently serves as an associate professor of law and the director of the Center for Intellectual Property Law and Technology at the University of Akron School of Law.

He serves as general counsel, partner, and co-inventor of an electrical engineering technology company. He also worked as a trial attorney at the Federal Trade Commission, practiced law as an associate at Jones Day and clerked for a judge on the Eleventh Circuit Court of Appeals.

Federal Grant: An eight-state collaborative formed to combat the opioid crisis will receive a \$1 million federal grant to aid in its efforts, the high court announced Friday.

The Regional Judicial Opioid Initiative - comprised of Ohio, Illinois, Indiana, Kentucky, Michigan, North Carolina, Tennessee and West Virginia - was awarded the grant by the U.S. Department of Justice's Bureau of Justice Assistance.

"Our regional effort serves as a bridge connecting key leaders and staff from law enforcement, to courts, to treatment providers, to children services and other aid organizations," Chief Justice O'Connor said. "This grant will go a long way toward helping close the information, enforcement, services and treatment gaps that have allowed this epidemic to fester and grow."

Volunteers Honored: Fourteen individuals who lead tours at the Thomas J. Moyer Ohio Judicial Center were honored for their service by all seven high court justices during a luncheon, according to the court.

"Your knowledge and enthusiasm are appreciated throughout the building by the staff and the justices," Chief Justice O'Connor said. "I want you to know that. Those of us who work here, and you by extension, as being a face with many of the students that come into this building, are extremely proud of the building and proud of what you do for us in showcasing the building and this institution."

Judicial Candidates: The Board of Professional Conduct announced its 2018 schedule of seminars for judicial candidates.

Disciplinary Hearings: The Board of Professional Conduct also announced disciplinary hearings scheduled for October.

Borges Issues Warning After OEC Ruling; Dems Pile On Over ECOT Overpayments; Renacci Cancels NFL Ad

An Elections Commission ruling could drastically alter the landscape of elections in Ohio, a former chairman of the Ohio Republican Party said Friday.

Matt Borges, who is now working for the Yes on Issue 2 campaign, said the panel's Thursday decision to dismiss two complaints against the opponents of a November ballot measure could open the door for political campaigns to use LLCs as pass-through entities to avoid financial disclosures.

Dismissed were complaints that the opposition PAC, Ohioans Against Issue 2, intentionally hid the source of its fundraising and violated state campaign finance disclosure laws. (See Gongwer Ohio Report, September 28, 2017)

Both complaints filed by the Yes campaign centered on the idea that PhARMA, a trade association of the pharmaceutical industry, was used as a pass-through entity to conceal millions of dollars of contributions from the drug industry to the PAO.

"If they had to do some long-term damage to Ohio to get what they want, they had no problem with that," Mr. Borges said. "They have been trying to keep folks in the dark throughout this entire campaign."

But Dale Butland, a spokesman for the No campaign, said the letter of the law was followed.

"If Matt Borges and the Yes side believe that Ohio law should be changed, then they should go to the legislature and ask them to do that," he said.

Mr. Butland also said Mr. Borges complaint about the dismissal is emblematic of a campaign in a "death spiral."

"The reason that they are going to lose isn't because there hasn't been enough debates, it's not because our side is not following the law, it's because they have a lousy proposal that will do great damage to this state and its people," he said.

ECOT Overpayments: With the announcement Thursday that the Electronic Classroom of Tomorrow will be docked an additional \$19 million for overpayments, one gubernatorial candidate is calling for the school to be "expelled."

Betty Sutton called the school's proposed change in status to a dropout and recovery institution a "sham."

"A failing school shouldn't be allowed to teach at-risk kids just so it can continue to rip off taxpayers. When a school lies and cheats they should be expelled. It's plain and simple. If they can't do basic math, they should not pretend to teach Ohio's kids," the Democrat said.

"It is beyond ridiculous that a sham school that leads Ohio in dropouts would be designated a dropout recovery school. We need to make Ohio the opportunity state by providing a good education for our children and that starts with expelling ECOT."

A Department of Education audit found that ECOT last year over-reported the number of full-time students it enrolls by 18.5% (See Gongwer Ohio Report, September 28, 2017)

The online charter school has already been order to repay \$60 million from the 2015-16 school year.

Renacci Ad: Those watching the Cleveland Browns take on the Cincinnati Bengals this weekend will not be learning about U.S. Rep. Jim Renacci's gubernatorial campaign.

The Alliance Republican announced Friday that he has canceled a \$20,000 ad buy during the game in the wake of a growing number of NFL players using the National Anthem as a platform to protest what they believe is racial injustice.

"While the First Amendment clearly affords NFL players and officials the freedom to engage in this appalling behavior, having the right to do something does not mean it's the right thing to do. Throughout our nation's history, countless American men and women of all backgrounds and races have sacrificed deeply to protect and preserve the ideals that our nation and its flag stand for - and our National Anthem serves as a tribute to that sacrifice that we should honor, not disparage," he said.

"And while the right to speak and protest peacefully is a fundamental freedom that we as Americans enjoy, protesting the most sacred symbols of those freedoms is both sadly ironic and an inexcusable, offensive display of contempt for what our nation stands for."

Harbaugh Endorsement: Ken Harbaugh, who is seeking to oust U.S. Rep. Bob Gibbs (R-Lakeview), announced that the Communications Workers of America has endorsed his candidacy in the 7th Congressional District.

"I am honored to have this endorsement from CWA. Ohio workers are among the best in the world. We need to fight for fair trade agreements and give our hard-working men and women a level playing field on which to compete," the Democrat said. "Folks working full-time jobs can and should be able to support their families. CWA is fighting for these improvements and so am I."

Added CWA District 4 Vice President Linda Hinton: "Ken's education, military background, and the fact he has spent a life helping others, show the experience and character needed to make workers and working families a priority."

Agency Briefs: Ohio Minimum Wage Rising In 2018; OPSB; USDA; ODA

Ohio's minimum wage will rise to \$8.30 per hour next year, up about 2% alongside the rate of inflation, the Department of Commerce announced Friday.

The \$8.30 wage applies to non-tipped employees at businesses with gross annual receipts of more than \$305,000 per year. For tipped employees, the new minimum wage will be \$4.15 per hour.

The current minimum wage is \$8.15 for non-tipped employees and \$4.08 for tipped employees.

For people who work at companies with gross receipts below \$305,000, and for 14- and 15-year-olds, the minimum wage will be the federal rate of \$7.25 per hour.

The state increase stems from an increase of 1.9% in the consumer price index.

Public Utilities: The Power Siting Board will hold a hearing Dec. 5 to allow the public to voice views about a proposal by Vinton Solar Energy LLC to build a solar-powered electric generation facility in Vinton county.

The hearing will take place at 6 p.m. that day at the Vinton County Community Building in McArthur.

The proposed facility would include arrays of solar panels with a combined generating capacity of up to 125 megawatts. It would be located on 1,950 acres of leased land in Elk Township, and the facility would be connected to the grid through American Electric Power's nearby Elk substation.

The adjudicatory hearing in the case will be at 10 a.m. Dec. 15 at the PUCO offices in Columbus.

U.S. Department of Agriculture: The department will award a \$22,910 solid waste management grant to Mahoning County, U.S. Rep. Tim Ryan (D-Niles) announced. The money will help fund the county's solid waste management district's rural recycling education and awareness program.

"I am pleased to announce this federal funding for Mahoning County," Rep. Ryan said in a statement.

"When it comes to preserving our environment for our kids, like many other issues, change starts at home. I am encouraged to see state and local governments like Mahoning County continuing to lead the charge on sustainability education. This funding will give rural Mahoning County an important boost, and represents a crucial federal investment. As long as I am in Congress, I will continue to fight to bring these important funds back to Northeast Ohio."

Agriculture: Gov. John Kasich on Friday signed an executive order creating an emergency rule on inflatable amusement ride safety inspections related to a change in the biennial budget bill.

The measure (HB 49) eliminated the statutory inspection fee for rides and granted authority to the Department of Agriculture director to develop rules for the fee structure.

The emergency rule announced in the EO will fill the gap until ODO develops the final rules for the inspections.

Governor's Appointments

State Dental Board: Theodore T. Bauer, DDS of Columbus for a term beginning September 29, 2017, and ending April 6, 2021.

Dentist Loan Repayment Advisory Board: Jaime L. Darr, DDS of Massillon for a term beginning September 29, 2017, and ending January 28, 2019.

Ohio Expositions Commission: John R. Page of Lewis Center for a term beginning September 29, 2017, and ending December 1, 2020.

Gongwer Statehouse Job Market Updated

Gongwer's Statehouse Job Market has been updated. The update is available on the Gongwer website.

Subscribers interested in posting job openings on Gongwer's employment board can send job descriptions and other information to gongwer@gongwer-oh.com.

Attorney General's Opinion

No. 2017-032. Requested by Williams County Prosecuting Attorney Katherine J. Zartman. SYLLABUS:

A person may not serve simultaneously as prosecuting attorney of Williams County and member of a joint-county board of alcohol, drug addiction, and mental health services of a joint-county alcohol, drug addiction, and mental health service district of which Williams County is a part.

Supplemental Agency Calendar

Monday, October 2

Banking Commission, 77 South High Street, Room East B on the 31st floor, Columbus, 10 a.m.

Tuesday, October 3

BRAC & Military Affairs Task Force, Rickenbacker Air Guard Base, 7370 Minuteman Way, Columbus, 1 p.m.

Wednesday, October 4

Board of Building Appeals, Ohio Department of Transportation, District Three Office, Conference Room, 906 Clark Avenue, Ashland, 8:30 a.m.

Real Estate Commission, 77 South High Street, 22nd Floor, Columbus, 9 a.m.

Thursday, October 5

Power Siting Board, 180 E. Broad St., Room 11B, Columbus, 3:30 p.m.

Friday, October 6

Board of Building Standards, 6606 Tussing Road, Training Room 1, Reynoldsburg, 10 a.m.

Supplemental Event Planner

Tuesday, October 3

Ohio Domestic Violence Network to recognize National Domestic Violence Awareness Month, Museum Gallery, Statehouse, Columbus, 9:30 a.m.

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Legislative Committee Schedules beginning 10/2/2017

Monday, October 2

Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.

Tuesday, October 3

Senate Insurance & Financial Institutions (Committee Record) (Chr. Hottinger, J., 466-5838), Finance Hearing Rm., 9:30 a.m.

- Confirmation hearing on governor's appointment of William Sanderson, Ohio Housing Finance Agency

- HB 52** DEED SOLICITATION (Rezabek, J.) To regulate the solicitation of certain deeds. (2nd Hearing-Proponent)
- SB 120** DEBT ADJUSTING (Eklund, J.) Regarding debt adjusting (3rd Hearing-Opponent & interested party)
- SB 121** MAMMOGRAM COVERAGE (Eklund, J.) To include tomosynthesis as part of required screening mammography benefits under health insurance policies. (2nd Hearing-Proponent)
- SB 169** TRAVEL INSURANCE (Wilson, S.) To oversee the sale of travel insurance. (2nd Hearing-Proponent)
- HB 199** MORTGAGE LENDING (Blessing, L.) To create the Ohio Residential Mortgage Lending Act for the purpose of regulating all non-depository lending secured by residential real estate and to limit the application of the current Mortgage Loan Law to unsecured loans and loans secured by other than residential real estate. (2nd Hearing-Proponent)

Senate Judiciary (Committee Record) (Chr. Bacon, K., 466-8064), North Hearing Rm., 10:15 a.m.

- SB 195** DOGS LAW (Beagle, B.) To revise provisions of the Dogs Law governing nuisance, dangerous, and vicious dogs, to revise enforcement of that Law, and to establish a notification process regarding complaints of certain violations of that Law. (1st Hearing-Sponsor)
- SB 196** BULLYING (Williams, S.) To create the offense of aggravated bullying, a third-degree misdemeanor. (1st Hearing-Sponsor)
- SB 130** FRANKLIN COUNTY COURT (Tavares, C.) To add two judges to the Domestic Relations Division of the Franklin County Court of Common Pleas to be elected in 2018. (1st Hearing-Sponsor)
- SB 150** DOMESTIC VIOLENCE (Brown, E.) To prohibit a person convicted of domestic violence or assault of a family member, or a person subject to certain protection orders, from having a firearm; to establish a procedure for surrendering all firearms in the person's possession; and to name the act the "Domestic Violence Survivors Protection Act." (1st Hearing-Sponsor)

- SB 138** **INMATE SEARCHES** (Eklund, J.) To authorize a corrections officer to cause a body cavity search to be conducted, to establish separate rules and restrictions for conducting strip searches, and to limit the right of any person to commence a civil action for a violation of the law governing body cavity searches and strip searches to violations related to body cavity searches. (1st Hearing-Sponsor)
- SCR 6** **EXTRADITION** (O'Brien, S.) To urge the President of the United States, the United States Secretary of State, and the Congress of the United States to compel Brazil to extradite Claudia Hoerig to stand trial for the aggravated murder of her husband, Major Karl Hoerig, and to request that the United States terminate foreign aid payments to Brazil if Claudia Hoerig is not extradited. (1st Hearing-Sponsor)
- SCR 10** **GAULT DECISION** (Thomas, C.) To recognize 2017 as the fiftieth anniversary of In re Gault. (1st Hearing-Sponsor)
- SB 171** **PROTECTION ORDERS** (Hottinger, J.) To increase the penalty that applies to the offense of violating a protection order under certain circumstances and to require electronic monitoring of those convicted of violating certain protection orders to be carried out by probation agencies. (1st Hearing-Sponsor)
- House Aging & Long Term Care (Committee Record) (Chr. Arndt, S., 644-6011), Rm. 122, 2:30 p.m.
- Presentation from Dr. Robert Applebaum of the Scripps Gerontology Center: "Policy Does Matter: Continued Progress in Providing Long Term Services and Supports for Ohio's Older Population"
- HB 286** **PALLIATIVE CARE** (LaTourette, S.) To create the Palliative Care and Quality of Life Interdisciplinary Council, to establish the Palliative Care Consumer and Professional Information and Education Program, and to require health care facilities to identify patients and residents who could benefit from palliative care. (2nd Hearing-Proponent-Possible substitute)
- House Public Utilities (Committee Record) (Chr. Cupp, R., 466-9624), Rm. 116, 3 p.m.
- HB 239** **SECURITY RESOURCES** (Smith, R., Carfagna, R.) To allow electric distribution utilities to recover costs for a national security generation resource. (6th Hearing-All testimony-Possible amendments)
- Senate Health, Human Services & Medicaid (Committee Record) (Chr. Burke, D., 466-8049), South Hearing Rm., 3:15 p.m.
- Confirmation hearing on governor's appointments of Joshua Cox, Benjamin Fields and Megan Marchal, State Board of Pharmacy; Michael Gonidakis, State Medical Board and Robert Schuerger, II, Ohio Athletic Commission
- HB 145** **CONFIDENTIAL TREATMENT** (Huffman, S., Sprague, R.) To provide for the establishment of a confidential program for the treatment of certain impaired practitioners and to declare an emergency. (1st Hearing-Sponsor)
- SB 143** **DAY DESIGNATION** (Eklund, J.) To designate September 25 as 'International Ataxia Awareness Day' in Ohio. (2nd Hearing-Proponent)
- HB 111** **MENTAL HEALTH COMMITMENTS** (Carfagna, R., Ryan, S.) To authorize certain advanced practice registered nurses to have a person involuntarily transported to a hospital for a mental health examination. (2nd Hearing-Proponent)

Wednesday, October 4

Senate Ways & Means (Committee Record) (Chr. Eklund, J., 644-7718), South Hearing Rm., 9 a.m.

HB 118 **PROPERTY TAX COMPLAINTS** (Merrin, D.) To expressly prohibit the dismissal of a property tax complaint for failure to correctly identify the property owner. (2nd Hearing-Proponent)

SB 186 **BUSINESS INCOME** (Peterson, B.) To provide that wages and guaranteed payments paid by a professional employer organization to the owner of a pass-through entity that has contracted with the organization may be considered business income. (3rd Hearing-Opponent & Interested party)

HB 69 **TIF DISTRICTS** (Cupp, R.) To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district. (4th Hearing-All testimony)

House Transportation & Public Safety (Committee Record) (Chr. Green, D., 644-6034), Rm. 017, 10 a.m.

- Presentations on autonomous and connected vehicles from Jonathan Weinberger, VP of Innovation and Technology for the Auto Alliance and Josh Fisher, manager state government affairs for Global Automakers

Tuesday, October 10

House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 11 a.m.

- If needed
Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.
- If needed
Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.
- If needed

Wednesday, October 11


Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.

House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 1:30 p.m.

Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.

Thursday, October 12

Ohio Retirement Study Council (Committee Record) (Chr. Schuring, K., 228-1346), Rm. 121, 10 a.m.

NOTE: Click bill or resolution number links to see the legislative history compiled by Gongwer News Service. Click the  after a bill number to create a saved search and email alert for that bill. Click "Full Text" if present to view the text of legislation on the Legislature's Web site.

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Daily Activity Planner for Saturday, September 30-Monday, October 2

Legislative Committees

Thursday, October 12

Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.

Agency Calendar

Monday, October 2

Banking Commission, 77 South High Street, Room East B on the 31st floor, Columbus, 10 a.m.

Speaker's Task Force on Heroin, Opioids, Prevention, Education, and Safety, MetroHealth, Scott Auditorium, Cleveland, 1:30 p.m.

Event Planner

Sunday, October 1

Ohio Legislative Black Caucus 50th Anniversary events, Canton, (5:15-6:15pm: Welcome Reception & Hall of Fame Tours; 6:15pm-8:15: Program & Dinner; 8:20pm-10:00pm: Live Music with the Four Keeps; 10:00pm: After Party Reception at the M-Bar)

Sen. Bob Peterson (R-Sabina) fall fest fundraiser, Peterson Farm, 5564 Grassy Branch Rd., Sabina, 4 p.m., (\$25 per Person or \$50 per Family to Peterson for Good Government)

Monday, October 2

Ohio Legislative Black Caucus 50th Anniversary events, Canton, (10:30am: Golf Outing Start (registration begins at 8:30am); 1:00pm: First Ladies Library Tour (registration begins at 12:00pm); 2:00pm: President McKinley Museum Tour (registration begins at 12:00pm); 3:00pm-4:00pm: OLBC Cookout/Reception at the National Historic Clearview Golf Course)

Lobbyist and Employer Activity & Expenditure Reports for the May-August 2017 reporting period are due

OHROC Chairman's Cup golf outing fundraiser, Virtues Golf Club, 1 Long Drive, Nashport, 9 a.m., (9:00am Registration; 10:00am Shotgun Start. Event Host: \$5,000; Event Sponsor: \$2,500; Tee Sponsor: \$1,250; Foursome: \$1,000; Individual Golfer: \$250; Reception Only: \$100 to OHROC)

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OHIO REPORT FRIDAY, DECEMBER 8

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Advocates Credit Housing, Rapid Intervention Strategies With Decline In Homelessness

Ohio Interests Weigh In On Pending Federal Net Neutrality Ruling

DeWine, Great Lakes Advocates Call For Greater Action Against Asian Carp

Complaint Filed Against Judge Salerno; Attorneys Disciplined; Ohio Groups Weigh In On Public Sector Union Case; SB33 Praised...

Renacci Goes On Attack Over Medical Pot; AFP Hits DeWine On Crew Threat; Rubio Backs Gonzalez; GA Member Endorses Whaley...

Report Shows Higher Ed Has \$7.3 Billion Impact On Southwest Ohio; Fordham Analyzes Report Cards; YSU Announces Tuition Guarantee...

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Volume #86, Report #236 -- Friday, December 8, 2017

No December Action Planned On Controversial Energy Standards, Cost Recovery Bills

House and Senate committees will not vote this month to advance controversial bills to weaken the state's renewable energy standards or grant cost recovery for Ohio Valley Electric Plants and FirstEnergy nuclear plants.

That's according to lawmakers in both chambers as they eye wrapping up some committee business before the General Assembly breaks for the holiday season at the end of next week.

In the Senate, Sen. Troy Balderson (R-Zanesville) said his Senate Energy & Natural Resources Committee will not meet, meaning that Senate President Larry Obhof's prior remarks that the energy standards bill (HB 114) may be reported out of committee this month won't come to fruition. (See Gongwer Ohio Report, November 22, 2017)

Still, Sen. Balderson said in an interview that Sen. Obhof's remarks got the ball rolling once again in earnest as stakeholders and lawmakers continue hashing out details of the bill.

"That got the conversation going again and that's what we wanted to do so that conversation is back up and running," he said. "They've been going along but they're a little bit more aggressive than they have been."

The bill, which would make current energy standards optional and reduce energy efficiency standards, has drawn wide criticism from environmental and clean energy groups. (See Gongwer Ohio Report, October 18, 2017)

It's a more far-reaching approach than last year's legislative attempt (HB554D, 131st General Assembly) which was vetoed by Gov. John Kasich. Sen. Balderson said talks with the Kasich Administration on the bill are ongoing. (See Gongwer Ohio Report, December 27, 2016)

"It's the administration, it's the interested parties, it's our caucus members who are now becoming engaged," Sen. Balderson said of talks. "(Caucus members) were always engaged but we're also working with them and trying to get a feel where they are on that."

Sen. Obhof previously said that if a December committee vote didn't take place the caucus would be eyeing action on the matter "quickly thereafter."

OVEC & ZEN: Cost recovery bills in both chambers are also poised for inaction this month. The OVEC proposal (HB 239 & SB 155) has been the most likely of the two bills to move forward, according to Republicans, and House lawmakers say they're still trying to achieve a consensus among the caucus regarding the bill's future.

"The OVEC bill I think is a place we're going to continue to see what we can do and have some conversations, continue to make some tweaks," House Speaker Cliff Rosenberger (R-Clarksville) said. "We're trying our best to continue to work on that so we'll see what happens."

The zero-emission nuclear credits legislation, meanwhile, is also unlikely to advance this month, although House Public Utilities Committee Chairman Rep. Robert Cupp said he will give the newer of the two House proposals a first hearing next week.

Rep. Anthony DeVitis (R-Green) has two bills (HB 178 & HB 381) - the first of which has received three hearings before Rep. Cupp's committee. The Senate version (SB 128) from Rep. Frank LaRose (R-Hudson), meanwhile, was last heard by the Senate Public Utilities Committee in October for its fourth hearing.

FirstEnergy CEO Chuck Jones has told investors he anticipates the bill will pass in early 2018. (See Gongwer Ohio Report, October 27, 2017)

On the Senate side, Sen. Bill Beagle (R-Tipp City), chairman of the committee reviewing both the OVEC and ZEN proposals, said if his committee does meet next week no votes are planned.

Both the House and Senate OVEC bills have had six hearings in their respective committees. Rep. Rick Carfagna (R-Westerville) and Rep. Ryan Smith (R-Bidwell) as cosponsoring the House effort while Sen. Lou Terhar (R-Cincinnati) and Sen. Bob Peterson (R-Sabina) are lead sponsors for the Senate version.

Opponents blasted both bills as a bailout of outdated coal plants, but OVEC utility owners say the bill would ensure parity for OVEC owners in Ohio and beyond.

Rep. Carfagna said in an interview little has changed since the October hearing in which he said just about all the changes that can be made to the bill to enlist support have already been made.

"The chairman's been talking to members on committee, seeing where the votes are and if there are no votes what is their specific hang up," Rep. Carfagna said. "Is it something that can be addressed through a specific language tweak and if so what is that."

He added: "I don't expect any movement before year end."

Asked about the status of the bill, committee Chairman Cupp (R-Lima) replied, "I have nothing to report. It's sort of static."

Report Sees Social, Economic Factors As Essential In Combating Infant Mortality

Infant mortality is largely driven by non-clinical factors such as housing and transportation, according to a state-funded report issued by the Health Policy Institute of Ohio.

The report was commissioned as part of legislation passed last year (SB332, 131st General Assembly) to examine the factors that influence the health of infants and their families, particularly those outside of the health care system.

Researchers looked at Ohio's housing, transportation, education and employment policies and how they related to infant mortality. The report found the state lacks sufficient low-income housing and that its cities are highly segregated, leading to poor birth outcomes due to crime and low-quality housing. Transportation options in the state are also limited.

Racial disparities in infant mortality (mortality among black infants is nearly three times that of white infants) align with disparities in other areas, such as employment and transportation access, the report said.

The researchers also looked at policies and outcomes in other states that have made faster progress in reducing infant deaths, including black infant deaths. Tennessee, for example, launched a scholarship program and other policies to improve education outcomes, while New York implemented tax credits to boost family incomes.

Cross-cutting policy recommendations included that the state should evaluate the effectiveness of policies and programs that serve Ohioans most at risk for infant mortality and target local leadership and advocacy for addressing the social determinants of health.

"Legislators, community leaders, clinicians and other stakeholders are concerned about Ohio's infant mortality rate and are particularly troubled that some babies face worse odds than others at the beginning of life," the report said. "While healthcare providers play a key role in improving infant outcomes, access to quality health care is necessary, but not sufficient. Improvements to factors beyond medical care are needed to achieve infant mortality reduction goals and to overcome the inequities and community conditions driving Ohio's worsening infant mortality rates and large disparities."

"Addressing the social drivers of poor health, such as housing, education, employment and transportation, holds promise for preventing infant mortality," the report continued.

Brandi Slaughter, CEO of Voices for Ohio's Children, said the report confirmed that infant mortality can't be addressed without dealing with social determinants of health.

Addressing infant mortality means dealing with homelessness, housing issues and employment, she said.

"Those aren't the easy things to address," she said in an interview. "Those are the things that are going to take some innovative solutions to get to."

One program she emphasized was home visiting, in which social workers, nurses or others visit pregnant women and new mothers in their homes and are able to see and help address those issues. Home visiting is supported by programs at the state and federal level, Ms. Slaughter said.

"It can't be stressed enough how important investments to those programs are," she said. "They meet in their home to address those very things, the social determinants."

A key issue at the moment is the congressional reauthorization of the Children's Health Insurance Program and the Maternal, Infant and Early Childhood Home Visiting Program, she said. Those two programs provide funding for pregnant women and new parents and play a significant role in fighting infant mortality.

Ms. Slaughter said future efforts to combat infant mortality need to focus on economic and other conditions, not just health care.

"This report, to me, screams that it's the social determinants of health, it's the economic conditions, that we have to begin to address," she said.

The HPIO was chosen in May as the contractor to prepare the report, and was paid \$176,349 for the study, according to the Legislative Service Commission. (See Gongwer Ohio Report, May 12, 2017)

O'Neill To Step Down Next Month, Though Many Believe He Should Already Be Gone

Ohio Supreme Court Justice Bill O'Neill plans to step down from his seat on the bench on Jan. 26, he announced Friday.

The Democratic gubernatorial candidate said his candidacy will become official that day by naming a running mate and filing petitions with the secretary of state's office.



Justice O'Neill

"Ohio is in a war with the pharmaceutical industry and organized crime and people are dying. Ohio is in a struggle with a broken educational system and the children are suffering," he said. "And older citizens are truly frightened that all their years of work are going to end in a sea of poverty. It is time to end the wave of hopelessness in Ohio."

In announcing his future resignation, Justice O'Neill also laid out his policy agenda if elected, including legalizing marijuana and using the revenue to fight the opioid epidemic; raising the minimum wage to \$15 per hour; installing solar panels on all government buildings; providing tax credits for all solar panels made in Ohio; building a high-speed rail system connecting Cleveland and Cincinnati; and creating a task force designed to rein in the cost of higher education.

"On Oct. 29 I gave the people of Ohio a vision for the future that has motivated and inspired me to leave the Ohio Supreme Court and become the next Governor of Ohio," he said. "I call it The O'Neill Plan."

Many people, Chief Justice Maureen O'Connor, believe that Justice O'Neill should have resigned from the court on that date.

"I suspect we are in agreement on that point. Be that as it may, under no circumstances will Bill be able to say that the Supreme Court agrees, approves, or condones his court of action to remain on the court," she wrote in an email to other members of the court. "Simply put we have no mechanism in place to remove a justice when one becomes a partisan candidate. Going forward, should we revisit some of our Rules of Judicial Conduct? I think that's a definite yes."

Chief Justice O'Connor also wrote that she disagrees with her colleague's interpretation of the Rules of Judicial Conduct, which he elaborated on in a Nov. 2 letter to her.

"I believe in compliance with Rule 4.5 of the Code of Judicial Conduct that upon the filing of petitions or the raising of campaign contributions I will become a candidate," Justice O'Neill wrote. "Anything prior to that time is constitutionally protected free speech."

Rep. Niraj Antani (R-Miamisburg), who has spearheaded a legislative effort to remove Justice O'Neill from the bench, also said he should have stepped down the day he announced his intention to run for governor.

"While I am pleased to see Justice O'Neill listen to my demand for him to step down from the bench or be removed, the reality is this resignation announcement is long overdue. As indicated by my House resolution that would remove him from the court, Bill O'Neill should have immediately removed himself from the Ohio Supreme Court the minute he declared himself a gubernatorial candidate, as is constitutionally required," he said.

"For over a month, O'Neill has left Ohio in a constitutional crisis. Unfortunately, for him to resign on Jan. 26 is unacceptable; it would leave justice unserved at the highest level for another seven weeks."

State Auditor Dave Yost has also been an outspoken critic of the justice's candidacy, most recently blasting him for not removing himself from the race when Rich Cordray entered, as he once said he would do.

"While Bill O'Neill had a campaign manager, has a campaign website and made a formal announcement of candidacy, he is being untruthful and claiming he is not a candidate," Mr. Yost said. "Now Ohioans are finding out he was just shining them on about quitting the race when Cordray became a candidate. Whatever else he says, the next words out of his mouth should be 'I resign.'"

The Ohio State Bar Association also said Mr. O'Neill should leave his seat immediately.

"As a declared candidate for governor with a published campaign platform, recusal is insufficient to remove any appearance of conflict or impropriety," OSBA President Randall Comer said. "Moving forward, we intend to work in concert with the Ohio Supreme Court and other interested parties to avoid future controversies of this nature."

While Justice O'Neill has been complimentary of Mr. Cordray, saying he would make a good governor, the former leader of the Consumer Financial Protection Bureau did not return the favor Friday.

"My vision is focused on the kitchen table issues that Ohioans and their families care about. Bill O'Neill is a loose cannon who callously disrespects women, embarrassing our party and our state. There's no place for that in this race," he wrote in a Tweet, referencing the controversy the justice created with a Facebook post last month. (See Gongwer Ohio Report, November 17, 2017)

The justice in an interviewed quipped that the "loose cannon" reference was due to the fact that he earned a Bronze Star for his service in the Vietnam War.

"I guess Rich has made a decision," he said. "He doesn't want to take about legalization of marijuana and saving 10 lives a day."

Senate President Larry Obhof (R-Medina) indicated that the upper chamber has the votes necessary to remove Justice O'Neill. (See Gongwer Ohio Report, December 7, 2017)

Fedor Eyes Former Senate Seat As Fellow Toledo Lawmakers Look To Return To Local Posts

Some familiar faces will be missing from the ballots of Toledo-area voters next year as Sen. Edna Brown is not attempting to swap seats with Rep. Mike Ashford, who is looking to fill a local vacancy.

"I know I could run for my old House seat, but I don't plan to do that," Sen. Brown said. "I kind of am tired of the long drive to Columbus weekly."

The term-limited Democrat who has served in the legislature since 2002 said she'd like to get back to her local roots and spend more time volunteering.

"I would love after I'm done here to serve in a policy position, maybe back on city council again," she said.

Rep. Teresa Fedor (D-Toledo) said she will file to run for Sen. Brown's seat, which she previously held from 2003-10.

She's been on a listening tour of sorts to learn what issues will be key to 11th Senate District residents in 2018 and beyond, she said.

"There seems to be a great concern on cleaning up the algae in my district, modernizing education to meet the jobs for the future and continuing my work on fighting against human trafficking," Rep. Fedor said.

"I'm just as concerned as they are about these issues and I do understand the challenges," she added. "I believe I bring experience and accomplishments with me to continue fighting for those issues that are important."

Sen. Brown said she would likely support Rep. Fedor to replace her in the Senate.

"She was very supportive of me when I ran for the seat and so I will be supporting her, I think," Sen. Brown said.

Though there has been talk of term-limited Rep. Ashford also considering a run for the open Senate seat, he said he's currently pursuing an appointment to become Lucas County treasurer.

The Democrat expressed optimism about his January interview for the spot, which will come open when the current treasurer is sworn in as Toledo mayor.

"Until then, my number one concern and commitment is to continue to serve as the ranking member of Public Utilities (Committee) and serve on the various committees I sit on," Rep. Ashford said. "I'll continue to do my work as the state representative right up until the interviews and then we'll just take it from there."

If he were to resign early to take the treasurer position, the application process to appoint his successor could provide insight into who is considering a run for the seat.

As of now, no candidates have come forward for Rep. Fedor's 45th House District or Rep. Ashford's 44th House District.

The historically left-leaning seats typically draw candidates who are serving on Toledo City Council, and it's expected that will again be the case in 2018.

Discussions of potential contenders include outgoing Mayor Paula Hicks-Hudson, who lost her November re-election bid, and council members Tyrone Riley, Lindsay Webb and Yvonne Harper.

DP&L Supreme Court Case Brings Ratemaking Refunds, Judicial Authority To Forefront

Members of the Ohio Supreme Court are questioning whether a contested Public Utilities Commission of Ohio ruling could undermine the court's authority.

That debate played out during oral arguments this week in a case brought by the Ohio Consumers' Counsel centered on a previous electric security plan from Dayton Power and Light.

At the heart of the closely-watched case is a key question that is also unfolding separately in discussions over a pending House bill: Should consumers be refunded for rate charges the court ultimately rules illegal? (Court Docket)

That pending bill from Rep. Mark Romanchuk (HB 247) is currently before the House Public Utilities Committee and is scheduled for a fourth hearing Tuesday. The legislation would also ban utilities from using electric security plans, or ESPs, like the one at the core of this case.

In June 2016, the court overturned a PUCO ruling and found charges in the company's ESP were unlawful. The commission then permitted the company to withdraw its plan

from before the commission but the OCC says customers had already lost out on tens of millions of dollars by that point.

"Through a regulatory sleight of hand the court's ruling was undercut by the PUCO and customers paid, not saved, more than \$80 million," said Maureen Willis, counsel for the OCC. "And that was unlawful."

Speaking for the PUCO, counsel Thomas McNamee told justices the case is moot because the ESP in question has already been replaced and new rates have been implemented.

Even with new rates in effect, however, justices asked whether the PUCO's actions undermine the authority of the judicial branch. Would a ruling in favor of the PUCO, they asked, render the court's review of such cases meaningless?

"If we don't adopt the view that is being expressed by Consumers' Counsel then we have in effect made ourselves moot because...a utility can withdraw the plan that we have ruled on and they can propose a subsequent plan and the commission can adopt that," Justice Terrence O'Donnell said, summarizing the OCC's argument.

"The statutory scheme here is very clear," Mr. McNamee replied. "When the commission modifies and approves an ESP plan the company has the ability to terminate that plan. That happened twice in this instance."

"But does that make our review meaningless?" Justice O'Donnell pressed.

"Only in a very unusual circumstance, I would say," Mr. McNamee answered.

Justice Patrick Fischer questioned how likely there is for a recurrence in which a party withdraws a proposal and thereby potentially ignores a prior court order.

"Could it be replicated? I guess it could," Mr. McNamee said. "Even if they do I think the difficulty here isn't that the court's decisions are unable to be affected generally. Perhaps it's the timing of the things here that caused the concern in this instance and that's unique to this case."

The question of refunds adds another wrinkle thanks to a 1957 ruling in *Keco Industries, Inc. v. Cincinnati & Suburban Bell Tel. Co.* The court found then that rates are lawful until the time a court deems otherwise. That prevents refunds for unlawful rates collected prior to the court's determination, which critics say is unfair.

As a result, the OCC is seeking that those improper rate dollars be accounted for in future DP&L rates in an effort to make customers whole. But Justice Judith French questioned how that approach might gel with the *Keco* precedent.

Ms. Willis said the case at hand could be seen as different from *Keco* because the rates in the 1957 case were lawful. That's not so in the case before the court, she said.

"The court issued its mandate," she said. "The PUCO did not carry out the mandate. So there were unlawful rates from the get go. ... If the court does not settle on that distinction the court can also apply *Keco* with flexibility."

Another alternative, she said, would be to overturn *Keco* entirely.

Regarding appellants' push to compensate for past charges, Mr. McNamee said that's not how ratemaking works. "Ratemaking is forward looking," he said. "You don't look to the past and try to correct mistakes that have been made in the past."

"So that would just be a windfall for the company?" Justice O'Donnell said.

Whether it is or not, Mr. McNamee said, is a factor under the purview of the legislature.

"The statutory mechanism that's been created to deal with that possibility is the stay that's allowed pursuant to statute," Mr. McNamee responded. "That's in the General Assembly's discretion in setting up this mechanism. That's what they created. People may argue whether it's an adequate tool."

During the proceeding, DP&L attorney Thomas Sharkey also defended the *Keco* ruling, saying it achieves a balance in the interests of all parties in part because the utility is unable to recover increased costs until years after due to the lengthy ratemaking process.

Advocates Credit Housing, Rapid Intervention Strategies With Decline In Homelessness

The number of people experiencing homelessness in Ohio on a single night early this year found the number down 3% compared to 2016. The change was part of a broader decrease that advocates attributed to improved strategies to address the problem.

While those strategies, such as permanent supportive housing, are working to combat long-term homelessness, economic trends such as rising rents and stagnant incomes are making housing less affordable.

The count, released this week by the U.S. Department of Housing and Urban Development, found 10,095 people homeless in Ohio in the annual one-day, point-in-time count, down 19.7% from 2010. The HUD report identified 8,786 were in emergency shelters or transitional housing programs while 1,309 were unsheltered.

The number of unsheltered people was up 13.1% from the previous year, but down 16.2% from 2010.

"All individuals deserve to have a safe and decent place to call home," HUD Deputy Regional Administrator James Cunningham said in a statement. "While we have made significant strides in reducing the number of individuals experiencing homelessness, we

must remain committed to implementing strategies that make it a rare, brief and non-recurring event."

The biggest recent overall decline has come among the chronically homeless, said Marcus Roth, spokesman for the Coalition on Homelessness and Housing in Ohio. That's due to local strategies that have worked, such as permanent supportive housing to stabilize people.

"We've been dealing with a homelessness crisis for so long that we've learned what interventions work and which ones don't," he said in an interview. "There's been a real emphasis on 'let's use the strategies that work now,' and we have the data to figure out what's been effective."

Other strategies that have worked, he said, include rapid rehousing intervention, in which people who lose housing are more quickly connected to services.

"By doing a rapid rehousing intervention that helps them before they get to that point, there's a much better chance that they will become stabilized and back to getting a job and having permanent housing of their own," he said.

Chronic homelessness and other issues have decreased due to better communication and collaboration between state, local and federal agencies, Mr. Roth said. Increased federal funding to combat homelessness among veterans has also helped in reducing that category.

"The bad news is even though the providers, the agencies out there doing this work are doing a better job, there's pressure coming from the other side where rents are rising, incomes are stagnant and there's a growing housing affordability crisis," he said.

The data found homelessness in the count dropped by 27.8% from 2012 to 2017, with declines all over the state except for Columbus and Youngstown. While the Youngstown decline was a small sample size - it rose from 224 in 2012 to 262 in 2017, the Columbus increase was more significant, an increase of 257.

Mr. Roth said Columbus, unlike most other metro areas in the state, is seeing rent and the overall cost of living increase quickly.

Potential changes to the federal tax code could hinder efforts to build affordable housing, he said. A series of tax credits and investment programs that encourage the construction of affordable housing, he said, could be eliminated in a tax bill currently in a congressional conference committee.

The possible reduction or elimination of low-income housing tax credits and historic tax credits, as well as the cutting of the corporate tax rate, could reduce incentives to build affordable housing, Mr. Roth said.

"Especially alarming is the fact that right now the debate in Congress over what to do with the federal tax bill has the potential to make the housing affordable crisis a whole lot worse," he said. "The federal tax code is the only way any affordable housing gets produced and preserved at all."

Ohio Interests Weigh In On Pending Federal Net Neutrality Ruling

The head of the Federal Communications Commission this week rejected the urging of Democratic senators - including U.S. Sen. Sherrod Brown (D-Cleveland) - to delay a forthcoming vote to overturn Obama-era net neutrality rules.

The vote is now expected to proceed Dec. 14 over the objections of consumer advocates, libraries and other opponents both in Ohio and beyond.

Senators argued the commission should take more time to consider the issue and allow for questions to be answered over the veracity of some public comments submitted to the FCC.

Concerns of fake comments on both sides have clouded the proceeding. A review of the docket even shows a fake submission in the name of Sen. Brown - who is against the move - purporting to support the FCC's proposal.

The FCC, which has three Republican and two Democratic members, is now poised to eliminate the rules package next week, which critics say would mark a coup for Internet service providers. The current rules, in part, prevent providers from slowing down or blocking certain content.

Leading the call for change is the telecom industry, including the National Cable Telecommunications Association of which the Ohio Cable Telecommunications Association is a member, which says those fears are unfounded.

"The largest broadband providers have demonstrated throughout this proceeding their clear commitments to their customers regarding Internet openness and that their customers expect them to honor those commitments," the NCTA wrote in a recent filing. "There is no basis to conclude that, after openly making these firm commitments to their customers and the public, any of these companies would turn their back on these pledges for short-term gain."

But some Ohio groups aren't sold on that claim. Metropolitan Libraries of Ohio has called access to information "a pillar of our country's democratic principles" and emphasized libraries' role in serving both urban and rural areas.

"Without net neutrality regulations in place, it becomes inherently more difficult and confusing for customers to understand how to connect to and navigate the internet if content becomes prioritized or even blocked," the group wrote.

"Additionally, the MLO are highly concerned that many applications and programs we provide to customers will be relegated to the internet slow lane or even made inaccessible due to our inability to pay the fees that may become required for faster broadband."

The Ohio Valley Environmental Coalition filed comments alongside several other groups constituting the Voices for Internet Freedom Coalition.

"The FCC's proposed repeal...will harm all Internet users and it will disproportionately harm people of color," the group wrote. "One word sums up the Voices Coalition's message to the FCC in this proceeding: stop."

And Bexley Mayor Ben Kessler has joined 64 other mayors from across the country urging the FCC to rethink its course.

"Net neutrality is a pocket book issue for American households," the mayors wrote. "Full repeal would have a particularly negative impact on middle and working class families, while simultaneously restricting access to certain types of online content and services to those who cannot afford to pay more."

Smaller, nonprofit municipal broadband providers, however, have voiced support.

In a joint filing, 19 of the groups - including Ohio's Oberlin Cable Co-op and CityLink in Wadsworth - wrote that the move will give municipal ISPs incentives to invest in network enhancement. The prior regulation, the companies argued, unfairly subjected them to rules that apply to common carriers and were overly broad.

"For muni ISPs, no longer classifying broadband service as a telecommunications service subject to Title II and eliminating the general conduct standard will provide real benefits for our customer-owners with no downside," the group wrote. "As a result, we will have greater certainty that our investments and development of new services and features will pay off."

DeWine, Great Lakes Advocates Call For Greater Action Against Asian Carp

Attorney General Mike DeWine is asking the U.S. Army Corps of Engineers to close the Brandon Road lock in Illinois in order to shield Lake Erie from invasive Asian carp.

Mr. DeWine's recommendations were submitted this week as the comment window on a federal plan to curb the spread of the species came to a close on Friday.

The Corps in August released a long-delayed federal plan to prevent the carp from entering the Great Lakes. The report, initially set for a February release until it was delayed by the Trump Administration, called for electric barriers, flushing locks, water jets and other steps. (See Gongwer Ohio Report, August 7, 2016)

But Mr. DeWine and other stakeholders say the plan is insufficient and have urged the corps to move quickly in addressing the threat. In June, a live Asian carp was discovered nine miles from Lake Michigan, sparking new fears the invasive species is already on the threshold of the lakes.

In his submitted comments, Attorney General DeWine said, "The Corps should implement the lock closure alternative, which will be the most effective, safest, cheapest to construct, and quickest to complete. The urgent need for action cannot be overstated."

"Due to the severe and irreversible consequences of an Asian carp invasion into the Great Lakes, the most effective measures possible must be used," Mr. DeWine continued. "The lock closure has the least construction and on-going maintenance costs and can be put in place the soonest, both of which are added benefits to this plan."

Great Lakes-area congressional leaders also submitted comments, writing that "Asian carp are on the doorstep of the Great Lakes system and we have a small but critical window of opportunity to stop them there."

Ohioans signing onto that letter include U.S. Rep. Marcy Kaptur (D-Toledo), U.S. Rep. Dave Joyce (R-Novelty), U.S. Rep. Tim Ryan (D-Niles), U.S. Rep. Marcia Fudge (D-Cleveland), U.S. Rep. Bob Latta (R-Lakeview) and U.S. Rep. Jim Renacci (R-Alliance).

Environmental groups and those tied to the lakeside economy have likewise urged swifter action. The Alliance for the Great Lakes, which includes the Sierra Club, the Natural Resources Defense Council, and other groups, said the species pose a "clear and present danger" to both the ecosystem and the regional economy.

"Further delay on implementing additional Asian carp prevention measures at Brandon Road is unacceptable," said Molly Flanagan, the group's president for policy. "The Corps and other government agencies must listen to more than just the wishes of the shipping industry. Instead, the Corps must follow the recommendations of researchers as well as listen to the residents of the Great Lakes region who care deeply about keeping Asian carp out of the lakes."

Fifty sportsmen's groups also weighed in, including Ohio-based Columbiana County Federation of Conservation Clubs, Ohio B.A.S.S. Nation, the Ohio Conservation Federation, the Ohio Council of Trout Unlimited and Silvertip Productions.

"We need stronger controls in place now in order to prevent Asian carp and other invasive species from continuing to swim closer to - and eventually into - the Great Lakes," the groups wrote. "Without firm and swift action to stop the further movement of Asian carp and other invasive species, the future of hunting, fishing and our outdoor heritage in the Great Lakes and Mississippi River region is at risk."

Complaint Filed Against Judge Salerno; Attorneys Disciplined; Ohio Groups Weigh In On Public Sector Union Case; SB33 Praised...

Former state lawmaker and current Franklin County Municipal Court Judge Amy Salerno is facing potential discipline by the high court.

A complaint filed with the Board of Professional Conduct alleges that she lowered the bond for a felony drug defendant from \$350,000 to \$85,000 at the request of a defense attorney without consulting the prosecution.

The defendant posted bond without the prosecuting attorney's knowledge after it was lowered.

The complaint also alleges that Judge Salerno violated the Judicial Code of Conduct in another case in which a defendant appeared before her for making an improper turn. The defendant had an arrest warrant for a previous traffic violation of driving too slow.

The prosecuting attorney in the case offered to dismiss the driving too slow case in exchange for a guilty plea in the improper turn charge. The defendant refused the plea deal and was found guilty of making an improper turn. At that point, according to the complaint, Judge Salerno asked the prosecution to dismiss the remaining charge. When the attorney refused to do so, Judge Salerno found the defendant not guilty on the charge.

After consulting with his supervisor, the attorney again asked for a trial date on the driving too slow case, leading Judge Salerno to again ask for the case to be dismissed.

When the attorney again declined, Judge Salerno then found the defendant to be not guilty of the charge of making an improper turn.

Judge Salerno in 2015 was publicly reprimanded by the Ohio Supreme Court for chastising members of a jury after they found a defendant not guilty.

Her office said the judge was unavailable to comment.

Attorneys Disciplined: The high court this week handed down discipline for several attorneys, and also found a Sidney man engaged in the unauthorized practice of law.

The court unanimously found that Ned Schroeder, who is not an attorney, performed a legal service when he told a debt collector from the Attorney General's office that he was an "authorized representative" of another person, its media arm reported.

Mr. Schroeder was fined \$2,500 and warned not to perform legal services unless he becomes authorized to practice law in Ohio.

In a unanimous decision, the court suspended former city of Niles Law Director J. Terrence Dull for two years, with one year stayed, after it found he misappropriated \$37,000 in client funds, it announced.

Also in a unanimous decision, the court reported that it issued a two-year suspension, with six months stayed, for Gigi Hoang Fuhry for practicing law while suspended and making a false statement on a federal financial registration form.

The court also announced the partially stayed suspensions of three attorneys and the suspensions of two lawyers for two years with 18 months stayed.

Union Case: The 1851 Center for Constitutional Law and the Buckeye Institute have both weighed in on a U.S. Supreme Court case challenging the constitutionality of "agency fees" in public sector unions.

The Buckeye Institute argued that the elimination of the requirement is unlikely to lead to a decrease in union membership.

"The enactment of right-to-work laws has not killed the unions," the amicus brief reads. "Rather, in Indiana, both union membership and union spending increased after the state enacted a right-to-work law. In Oklahoma, average union growth rates increased by 42% since a right-to-work law was enacted in 2001. And, in Michigan, union membership has seen recent increases after an initial small decline."

The 1851 Center made a First Amendment argument in its amicus brief filed with the court.

"Legislative enactments forcing public employees to subsidize unions' collective bargaining speech violate the First Amendment because that collective bargaining speech devolves into the lobbying of public officials upon highly ideological and political matters in a substantial number of applications," the group wrote.

Bill Praised: The Justice Action Network is praising the passage of legislation (SB 33) to permit law enforcement to disclose information from the Law Enforcement Automated Data System to a defendant in a criminal case.

Executive Director Holly Harris called the measure "common sense legislation" that will "create a safer Ohio, reducing recidivism rates and ensuring that valuable taxpayer resources are focused on true threats to our communities."

"But our work is far from over. The Ohio legislature has another opportunity to build on these achievements with Senate Bill 66, legislation that would expand treatment options and alternatives to incarceration, reform certain approaches to technical violations, and expand record-sealing for certain offenders that have proven a commitment to a crime-free life," she said.

"This bill is well-vetted, and we urge the Ohio legislature to move it swiftly to passage so that Ohio remains a national leader on commonsense justice reform. 'As goes Ohio, so goes the nation.'"

Attorney Theft: The Board of Commissioners of the Lawyers' Fund for Client Protection announced that 31 victims of attorney theft were awarded nearly \$200,000.

Franklin County: The Franklin County Common Pleas Court announced that Judge Stephen McIntosh will serve as administrative judge in 2018 and Judge Charles Schneider will serve as presiding judge.

Renacci Goes On Attack Over Medical Pot; AFP Hits DeWine On Crew Threat; Rubio Backs Gonzalez; GA Member Endorses Whaley...

U.S. Rep. Jim Renacci (R-Alliance) went on the offensive Friday, blasting fellow gubernatorial candidate and Attorney General Mike DeWine for his "embarrassingly inept response to the state's hiring of a felon drug dealer."

The broadside comes after it was revealed that one of several evaluators of cultivator proposals has a past drug dealing conviction. (See Gongwer Ohio Report, December 6, 2017)

Mr. Renacci said "it's beyond question that the state should void all previously authorized licenses and halt the issuance of new ones, Mike DeWine refuses to support those measures. Which also begs the question as to whether or not any of those involved in Ohio's marijuana industry are involved with or have financially supported Mike DeWine's campaign for governor?"

"Ohioans deserve better than a Columbus insider unwilling to fight for their interests on the critical issues facing our state. Enough is enough. As Governor of Ohio, the integrity of the state government and the welfare of Ohioans will always be my priority."

Dan Tierney, a spokesman for the AG's office, said Mr. Renacci is "clearly not paying attention to details of this issue."

"Attorney General DeWine is appalled that a convicted felon scored these licensure applications. Attorney General DeWine has called for an independent third party with prosecutorial experience to review any complaints regarding allegations made about the licensure process. This third party should have authority to refer any findings to law enforcement agencies for review of potential criminal charges, whether that is the State Highway Patrol, the Ohio Ethics Commission, or the Franklin County Prosecutor," he said.

"The voiding or delaying of licenses will likely be the subject of litigation, which the Ohio Attorney General's Office or appointed special counsel will defend in court. It is always unfortunate when a political candidate calls on our office to take actions which would harm the state's position in court and ultimately cost taxpayers even more money."

Crew Threat: AG DeWine's threat of legal action to prevent the Columbus Crew from relocated to Austin drew a sharp rebuke Friday from Americans For Prosperity-Ohio.

State Director Micah Derry called the threat "a complete and utter disregard for private property rights."

"As a former season ticket holder myself, I am disappointed Anthony Precourt is seeking to leave Columbus but under no circumstances should the government be attempting to force the sale of a private enterprise. The possibility of losing a sports franchise does not justify this inappropriate use of force and coercion," he said, adding there is no legal precedent for such an action.

AG DeWine invoked the "Art Modell Law" in threatening legal action. (See Gongwer Ohio Report, December 7, 2017)

The law states that an Ohio professional sports team that uses a "tax-supported facility" and receives financial assistance from the state or a political subdivision cannot relocate without reaching an agreement with the political subdivision or giving the political subdivision or any group of individuals who reside in the area an opportunity to buy the team.

"The facts reflect that this law applies to the Crew, and my office will enforce its provisions if an as necessary," AG DeWine wrote in a letter to Mr. Precourt. "Our hope is that Precourt Sports Ventures will reaffirm a commitment to playing its home games in Columbus."

In response to AFP-Ohio's comments, Mr. Tierney said AG DeWine "will always advise Ohioans to follow the law."

Rubio Endorsement: Former Ohio State football star Anthony Gonzalez earned a big endorsement in his effort to win the Republican nomination in the race to replace U.S. Rep. Jim Renacci (R-Alliance).

U.S. Sen. Marco Rubio (R-Fla.) is backing the former wide receiver's candidacy, calling him "exactly the type of young, public-spirited conservative we need more of in Washington."

"His family, like mine, fled communist Cuba in search of a better life," he said. "He loves this country and believes, as I do, that he can never give back to America more than it has given to him."

Brown Endorsement: Dayton Mayor Nan Whaley announced several new endorsements in her gubernatorial bid, including one from Rep. Richard Brown (D-Canal Winchester).

"I am humbled to receive the support of these proven community leaders from around our state," she said. "They know that in order to create jobs and move our state forward, we need bold new ideas and on-the-ground, community-focused leadership to get it done."

Net Neutrality: Two House Democrats have introduced a measure urging Congress and President Donald Trump to protect net neutrality.

Rep. Thomas West (D-Canton) and Rep. Dan Ramos (D-Lorain) introduced the measure (HCR 18) ahead of an expected vote this month by the Federal Communications Commission.

"Without net neutrality, your internet service provider could arbitrarily block whatever websites it didn't want you to access. Eliminating net neutrality also means that your ISP could purposefully slow down access to certain websites or services and force you to pay extra to access certain websites or services," Rep. West said.

"The elimination of net neutrality would allow for price gouging by ISPs and would stifle the incredible innovation that the internet promotes - the sort of innovation that has added trillions of dollars to our economy and created millions of jobs."

Added Rep. Ramos: "A tiny number of massive companies would be able to bend the rules in their favor, hurting other emerging markets and limiting competition that relies on a level playing field."

Space Campaign: Auditor hopeful Zack Space has completed his tour of Appalachian counties dubbed the "Ohio River Tour to Restore."

"Last week, my team and I visited nine counties in Southeastern Ohio along the Ohio River on our 'Tour to Restore,'" he said.

"Appalachian Ohioans are not second class citizens, yet they have been treated as such by a democratic process that so singularly prioritizes raising campaign cash. My campaign aims to restore the fundamentals of our democracy, and return power to the people of Ohio, where it belongs."

Concealed Carry: Ohio Gun Owners has joined forces with several other gun-rights groups to oppose a national concealed carry reciprocity bill they say was merged with Democratic gun control legislation.

"In its current form, we absolutely oppose HR38," they said. "More, we are calling upon our membership to contact their senators and demand they oppose any gun bill that contains language being pushed by (Democrats) and others to 'Fix-NICS,' which is nothing more than a massive federal gun registry in the making."

Dream Act: Other Ohio Groups, including the Ohio Restaurant Association, the Ohio Fuel Cell Coalition and the presidents of Ohio Dominican University and Xavier University, are calling on federal lawmakers to pass the Dream Act and protect those who were brought to American illegally as-children.

"Congress has the opportunity to show genuine leadership in passing a permanent legislative solution to protect Dreamers," they wrote. "We urge you to do right by these

hard working young people, who are American in every way but on paper, and pass legislation before you leave town for the holidays."

Report Shows Higher Ed Has \$7.3 Billion Impact On Southwest Ohio; Fordham Analyzes Report Cards; YSU Announces Tuition Guarantee...

Higher education institutions in southwest Ohio have a \$7.3 billion economic impact on the region, according to a recently released report.

The Southwestern Ohio Council for Higher Education this week released its annual economic impact study, which also found that every dollar spent in 2016, member institutions created an additional 72 cents in economic activity.

For every job created in the sector, another one was indirectly created, the report also shows.

"The collective economic impact of SOCHE's members is not only measured in jobs, wages, and economic activity," President Sean Creighton said. "Higher education institutions also provide research, consultancy, and services that support local, regional, and national businesses."

The report shows nearly 150,000 students are studying and living in the region and their tuition as well as research dollars and alumni giving bring \$3.8 billion in new revenue to the region each year.

"SOCHE's impact study reinforces the role of higher education as a regional economic driver," said Jo Alice Blondin, president of Clark State Community College and chair of the group's board of trustees.

"Through changing times and economic climates, our two- and four-year institutions have continued to provide the quality training and education needed for individuals to better themselves, their careers, and their lives. Through internships, capstones, and other immersive work experiences, our students are connecting with in-demand industries and employers to advance our regional economy."

Report Cards: In its latest report, the Thomas B. Fordham Institute analyzes the state report card and offers recommendations for improvement, including reducing the number of grades it assigns.

"As a vital look at the performance of Ohio schools, report cards should make sense to Ohioans," said Aaron Churchill, Ohio Research Director at Fordham. "While well-intentioned, Ohio's phase-in of new performance measures in recent years has made report cards increasingly unwieldy and harder to comprehend."

In addition to paring down the current 15 ratings on the report card, the institute recommends creating an overall school rating formula that better balances growth and

overhauling the gap closing component, which should be renamed the equity component.

"By focusing so heavily on achievement measures, Ohio's rating system unfairly labels high-poverty schools that are making big impacts on student growth as failures," Mr. Churchill said.

"With a prominent overall rating coming next fall, it's critically important that legislators properly balance achievement and growth measures in this rating formula. If they fail to act, vast numbers of high-poverty schools will receive overall D's and F's, leaving families in these communities unable to distinguish dysfunctional schools from exceptional ones."

Included with the report is a sample report card with the changes Fordham is proposing.

The recommendations come after Rep. Mike Duffey (R-Worthington) announced this fall that he plans to bring together stakeholders to create a proposal for revamping state report cards. (See Gongwer Ohio Report, September 29, 2017)

Tuition: Youngstown State University has created a tuition guarantee program that holds incoming student tuition and fees at the same rates for four years.

The YSU Board of Trustees this week approved the Penguin Tuition Promise, which sets tuition for students who enter in the fall of 2018 at \$8,899 per academic year. Room and board for those students will be set at 9,400 per year.

"The Penguin Tuition Promise provides all first-time undergraduate students and their families the certainty that tuition will remain the same for four years as they pursue their degrees," YSU President Jim Tressel said. "It makes the cost of college more predictable, it helps families better plan financially and it encourages students to complete their degrees on time."

The new program is also part of the university's efforts to get students to graduation more quickly, Provost Martin Abraham said.

"In addition to offering stability in costs, the Penguin Tuition Promise is yet another incentive and tool for students to finish their undergraduate degrees in four years," he said.

Current students are not eligible to enter the program. Per state law, tuition and fees will remain the same for them next school year.

Creating tuition guarantee programs allows institutions to impose a one-time tuition increase with each new cohort of students; so long as their costs remain the same over four years.

Trustees also reversed action taken earlier this year to increase student transportation fees by \$40. The Department of Higher Education determined the change didn't comply with state budget restrictions on fee increases, so those students who paid the increased amount will be refunded, the university said.

Ethics: The Ohio Ethics Commission has determined that Youngstown City Schools CEO Krish Mohip must file an annual financial disclosure statement.

The decision comes in response to inquiries from Mahoning Valley lawmakers who raised ethics violation concerns when reports surfaced that the district contracted with a firm for which Mr. Mohip worked as a consultant. (See Gongwer Ohio Report, November 21, 2017)

M. Mohip denied the allegations, saying he was unaware the company he worked for and the company that provides school materials are connected through a parent company.

However, Rep. John Boccieri (D-Alliance), Rep. Michele Lepore-Hagan (D-Youngstown) and Sen. Joe Schiavoni (D-Boardman) said they wanted clarification about whether the CEO had to meet state ethics requirements in the same way superintendents do.

"I am thankful the Ohio Ethics Commission answered our questions and provided clarity that - even with the privatization of our public schools - a school district CEO still must be fiscally, legally and ethically accountable to the school district and taxpayers," Rep. Boccieri said.

Preschool: New digital resources have been made available to prepare children ages 3-5 for school, the Department of Education announced this week.

The INFOhio Early Learning Portal contains more than 50 websites and apps chosen and evaluated by educators and librarians who are experienced in the areas of early learning and literacy.

"Our young children are eager to learn. It's crucial that we nurture that desire and build a solid foundation for future learning," said Paolo DeMaria, superintendent of public instruction. "Parents and educators can help their students be ready for school through these quality resources that make learning fun."

Preschool children can use the portal to learn letters, numbers and basic knowledge as well as interact with others, develop problem-solving skills and engage in meaningful play, according to ODE. Almost all the resources are available for free.

"This website is a tremendous resource for parents and child care providers," said Cynthia Dungey, director of the Ohio Department of Job and Family Services. "It has a wealth of concrete suggestions for preparing children to succeed later in school. Best of all, those suggestions are both simple and fun."

Fellows: Ohio University's Scripps College of Communication announced the launch of a fellows program focused on communications curriculum development for grades Pre-K-12.

Up to 10 educators - five from rural Appalachian and five from urban districts - who want to add communications lessons to their classrooms will be named fellows each year, the college said. Applications are currently being accepted through Jan. 22.

Fellows will attend a one-week summer residential experience at OU's main campus in Athens and receive free tuition for a graduate-level online course, a \$1500 stipend and \$1000 classroom stipend. They'll also work with college faculty mentors and college leadership.

"We want to foster communication education among the state's youth and support teachers in innovative and dynamic projects relating to our field," Dean Scott Titsworth said. "As the college celebrates its 50th anniversary, we hope this program will increase our impact on the state by bolstering the communication expertise of some of the state's K-12 teachers and enriching the education of their students."

Agency Briefs: U.S. Unemployment Steady At 4.1%; Drug Treatment Issue Certified; Election Results Finalized; Auditor; BWC; PUCO; OLC; ODH

The U.S. economy added 228,000 jobs in November as the unemployment rate remained unchanged at 4.1%, the U.S. Bureau of Labor Statistics reported Friday.

The labor force participation rate was 62.7% in November and has changed little over the past year, the bureau announced.

Significant growth happened in professional and business services, which added 46,000 jobs for the month. The report also found a gain of 31,000 jobs in manufacturing, with increases of 8,000 in machinery, 7,000 in fabricated metal products and 4,000 in computer and electronic products.

The health care field showed a gain of 30,000 jobs in November, 25,000 of which came from ambulatory services, such as doctors' offices and outpatient care centers.

In construction, employment among specialty trade contractors was up 23,000 for the month.

Attorney General: Mike DeWine on Friday certified as "fair and truthful" a petition for a proposed constitutional amendment on easing penalties associated with drug crimes.

Supporters of the "The Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment" obtained the required 1,000 valid signatures from registered Ohio voters and a presented an appropriate summary of the proposal, the AG deemed. The issue will now go to the Ohio Ballot Board, which will determine whether it constitutes a single question for voters.

Mr. DeWine said the his approval comes without "passing upon the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General's Office...."

Secretary of State: Jon Husted certified the results of the 2017 General Election, which showed 99.17% of absentee ballots and 91.35% of provisional ballots cast were counted by county boards of elections.

Both of those numbers were up compared to the 2015 election, when 98.2% of absentee ballots and 84.63% of provisional ballots were counted.

Only 25,704 provisional ballots were cast, compared to 79,414 in 2015, with provisional ballots accounting for 1.07% of the overall vote this year compared to 2.44% in 2015.

"Voters can be proud of the work state and local officials have done in the last seven years to make it easier to vote and harder to cheat in Ohio," Secretary Husted said in a statement. "This latest election shows that those efforts are working as people continue to take advantage of expanded early voting opportunities, the need for provisional ballots has declined, more ballots are being counted, and fewer ballots are being rejected."

State Auditor: Dave Yost announced that Bloom Township in Scioto County was released from fiscal emergency after 12 years with the designation.

The township of 3,235 people offset deficit fund balances by moving money previously assigned to its road and bridge fund to the general fund, cutting costs by ending its practice of reimbursing employees for health and cancer insurance, and by no longer renting space for meetings.

"Years spent chipping away at a deficit takes a toll on a community," Auditor Yost said in a statement. "Bloom Township's citizens and leaders have stuck it out for more than a decade and today are finally rewarded for their perseverance."

Another audit found the Village of Brice in Franklin County didn't maintain records needed for auditors to verify its speeding ticket revenue from 2016.

The audit also held a former police chief accountable in the sale of a gun that was on loan from the federal government.

The report said the village received \$171,611 in collections from speed camera citations in 2016, accounting for 73% of the village's general fund, but Police Chief Bud Bauchmoyer did not keep a record of which images were approved for collection.

"A prudent police chief would keep a complete record of every citation, especially given the level of scrutiny placed on the village's ticketing practices," Auditor Yost said. "Without an intact paper trail, we can't give taxpayers assurance that this amount is accurate."

The audit also found former Police Chief Christopher Stets owes the village \$1,000 for losses that stemmed from the sale of a handgun borrowed from the federal government.

In a separate release, the auditor said a report found the fiscal officer for New Castle Township in Coshocton County overpaid herself by \$2,599 during 2016. The audit found Gloria Mosholder incorrectly calculated her pay at the start of her new term April 1, when she was due for a statutory raise. Auditors said she calculated her pay rate based on a nine-month period instead of prorating a 12-month pay rate.

She agreed in August to withhold \$400 from her monthly paychecks until the overpayment is repaid.

Another audit found the former executive director of the Clinton County Convention and Visitors Bureau used the bureau's credit card for \$15,107 in personal expenses that included haircuts, manicures, shoes, handbags and hotel bills.

Debbie Stamper repaid some of the money before her death in December 2016, and her estate paid the rest, the auditor's office said.

Workers' Compensation: The bureau said a southeastern Ohio man owes it more than \$23,000 after investigators found him working several jobs while collecting benefits. Ernest Shawn Baker, 45, of Pomeroy, will also serve five years of community control after pleading guilty to a felony count of workers' compensation fraud Nov. 29.

"We discovered that Mr. Baker went back to work as a carpenter soon after his injury in 2014, and he deliberately didn't tell us," said Jim Wernecke, director of BWC's special investigations department. "We interviewed union officials and others and found he had worked for a dozen different employers while defrauding our agency."

Another investigation found Mark McIntosh, 51, of Millfield, overseeing a firewood processing plant and hauling firewood while receiving permanent total disability benefits. Mr. McIntosh pleaded guilty to a misdemeanor count of workers' compensation fraud.

Public Utilities: The Ohio Power Siting Board authorized Clean Energy Future Oregon, LLC, to build a 955-megawatt natural gas generation facility in Lucas County.

The facility will be built on 30 acres in Oregon.

The board also approved a request by Black Fork Wind Energy LLC to allow it to use a new turbine model with the same dimensions as the previously approved model.

Library Council: The Ohio Library Council said the state received national recognition for public library services, with 25 libraries in the state earning star ratings in the Library Journal Index of Public Library Service.

"Being recognized on a national level is a true honor for the Ohio library community," said Doug Evans, executive director of the Ohio Library Council. "This ranking clearly

indicates that the citizens of Ohio value and use their public libraries. Ohio libraries have a national reputation for providing responsive services and innovative resources to their communities."

Health: The department said flu activity is increasing in the state, with 92 flu-associated hospitalizations in the week that ended Dec. 2 and 257 total hospitalizations since the start of the flu season. The totals are above the average for this time of year and much higher than the 19 hospitalizations reported during the same week last year.

"Pregnant women and their young infants are at high risk for serious complications from the flu," said Dr. Clint Koenig, Medical Director of the Ohio Department of Health. "CDC, the American College of Obstetricians and Gynecologists, the American College of Nurse-Midwives, and the American Academy of Family Physicians recommend flu shots for all women who are or expect to be pregnant during the flu season."

Supplemental Agency Calendar

Tuesday, December 12

Backflow Advisory Board, Conf. Rm. 1, 6606 Tussing Rd., Reynoldsburg, 10 a.m.

Wednesday, December 13

Real Estate Commission, 22nd Fl., 77 S. High St., Columbus, 9 a.m.

State Medical Board, 3rd Fl., 30 E. Broad St., Columbus, 9:45 a.m. (Committee meetings begin at 7:30 a.m.)

Construction Industry Licensing Board, OCILB Conf. Rm., 6606 Tussing Rd., Reynoldsburg, 10 a.m. (Plumbing Section)

Ethics Commission, 30 West Spring Street, Meeting Room 2 on the second floor, Columbus, 10:30 p.m.

Thursday, December 14

Board of Building Standards, Training Rm. 1, 6606 Tussing Rd., Reynoldsburg, 10 a.m. (The Certification and Education Committee meets at 10 a.m. and the Code Committee at 1 p.m.)

Friday, December 15

Board of Building Standards, Training Rm. 1, 6606 Tussing Rd., Reynoldsburg, 10 a.m.

Supplemental Event Planner

Monday, December 11

News conference to announce marijuana legalization ballot issue, TBA, Columbus, 11 a.m.

Tuesday, December 12

State Auditor Dave Yost news conference on financial health indicators, Harding Briefing Room, Statehouse, Columbus, 10:30 a.m.

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**Daily Activity Planner for Saturday, December 9-
Monday, December 11**

Legislative Committees

Tuesday, November 6

Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.

Agency Calendar

Monday, December 11

State Board of Education, 25 S. Front St., Columbus, 8:30 a.m.

Event Planner

Monday, December 11

**News conference to announce marijuana legalization ballot issue, TBA,
Columbus, 11 a.m.**

**17 S. High St., Suite 630
Columbus Ohio 43215**

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Legislative Committee Schedules beginning 12/11/2017

Monday, December 11

Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.

Tuesday, December 12

House Financial Institutions, Housing & Urban Development (Committee Record) (Chr. Dever, J., 466-8120), Rm. 114, 9 a.m.

- HB 390** **FORCIBLE ENTRY** (Merrin, D.) To clarify how to calculate certain timelines under which a forcible entry and detainer action must occur. (3rd Hearing-Opponent)
- HB 386** **CREDIT FREEZES** (Henne, M., Kelly, B.) To modify the fees that a credit reporting agency can charge in relation to a credit report freeze. (3rd Hearing-All testimony)
- HB 182** **DEBT ADJUSTING** (Seitz, B.) Regarding debt adjusting. (4th Hearing-All testimony-Possible substitute & vote)
- HB 353** **UNCLAIMED FUNDS** (Reineke, B.) To exempt certain open-loop prepaid cards, closed-loop prepaid cards, and rewards cards from the Unclaimed Funds Law. (5th Hearing-All testimony-Possible amendments & vote)

House Finance (Committee Record) (Chr. Smith, R., 466-1366), Rm. 313, 9 a.m.

- HB 3** **DATAOHIO BOARD** (Duffey, M., Hagan, C.) To create the DataOhio Board; to specify requirements for posting public records online, to require the Auditor of State to adopt rules regarding a uniform accounting system for public offices, to establish an online catalog of public data at data.Ohio.gov, to establish the Local Government Information Exchange Grant Program, and to make appropriations. (3rd Hearing-All testimony-Possible vote)
- HB 281** **BROADBAND EXPANSION** (Carfagna, R.) To establish the residential broadband expansion program within the Development Services Agency to award matching grants for last mile broadband expansion in municipal corporations and townships and to make an appropriation. (3rd Hearing-All testimony-Possible substitute)
- HB 378** **BROADBAND GRANTS** (Smith, R., Cera, J.) To create the Ohio Broadband Development Grant Program and to make an appropriation. (2nd Hearing-Proponent)
- HB 102** **SCHOOL FUNDING** (Brenner, A.) To replace locally levied school district property taxes with a statewide property tax and require recipients of certain tax exemptions to reimburse the state for such levy revenue lost due to those exemptions; to increase the state sales and use tax rates and allocate additional revenue to state education purposes; to repeal school district income taxes; to require the Treasurer of State to issue general obligation bonds to refund certain school district debt obligations; to create a new system of funding schools where the state pays a specified amount per student that each student may use to attend the public or chartered nonpublic school of the student's choice, without the requirement of a local contribution; to eliminate the

School Facilities Commission; to eliminate the Educational Choice Scholarship Pilot Program, Pilot Project Scholarship Program, Autism Scholarship Program, and Jon Peterson Special Needs Scholarship Program; to eliminate interdistrict open enrollment; to require educational service centers to transport students on a countywide basis; and to permit school districts to enter into a memoranda of understanding for one district to manage another. (2nd Hearing-Proponent)

House Ways & Means (Committee Record) (Chr. Schaffer, T., 466-8100), Rm. 121, 9 a.m.

HB 343 **PROPERTY VALUES (Merrin, D.)** To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners. (5th Hearing-Possible amendments)

HB 371 **PROPERTY TAX (Merrin, D.)** To exempt from property taxation the increased value of land subdivided for residential development until construction commences or the land is sold. (5th Hearing-Possible amendments)

HB 337 **COLLEGE TEXTBOOKS (Duffey, M.)** To exempt from sales and use tax textbooks purchased by post-secondary students. (2nd Hearing-Proponent)

Senate Insurance & Financial Institutions (Committee Record) (Chr. Hottinger, J., 466-5838), Finance Hearing Rm., 9:30 a.m.

SB 227 **HEALTH PLAN CLAIMS (Huffman, M.)** To require health plan issuers to release certain claim information to group plan policyholders. (1st Hearing-Sponsor)

Senate Judiciary (Committee Record) (Chr. Bacon, K., 466-8064), North Hearing Rm., 10:15 a.m.

HB 215 **PAULDING COURTS (Riedel, C.)** To create the Paulding County Municipal Court in Paulding on January 1, 2019, to establish one full-time judgeship in that court, to provide for the nomination of the judge by petition only, to abolish the Paulding County County Court on that date, to designate the Paulding County Clerk of Courts as the clerk of the Paulding County Municipal Court, and to provide for the election for the Paulding County Municipal Court of one full-time judge in 2018. (3rd Hearing-All testimony-Possible vote)

SB 158 **ELDER FRAUD (Wilson, S.)** To develop best practices and educational opportunities to combat elder fraud and exploitation and to fine and require full restitution from offenders who are found guilty of certain fraud-related crimes against the elderly. (5th Hearing-All testimony-Possible vote)

HB 1 **DATING PROTECTION ORDERS (Sykes, E., Manning, N.)** To authorize the issuance of dating violence protection orders with respect to conduct directed at a petitioner alleging dating violence, to provide access to domestic violence shelters for victims of dating violence, and to require the Attorney General's victim's bill of rights pamphlet to include a notice that a petitioner alleging dating violence has the right to petition for a civil protection order. (4th Hearing-All testimony-Possible amendments & vote)

SB 64 **JUVENILE BINDOVERS (Thomas, C.)** To eliminate mandatory bindovers and reverse bindovers, and modify the rules and procedures regarding a discretionary bindover, of an alleged juvenile offender from a juvenile court to a criminal court. (2nd Hearing-Proponent)

SB 214 **GENITAL MUTILATION** (Terhar, L., Lehner, P.) To prohibit female genital mutilation. (1st Hearing-Sponsor)

SB 180 **FIREARM LAWS** (Uecker, J., Hottinger, J.) To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises. (3rd Hearing-All testimony)

HB 79 **FIREARMS TRAINING** (Retherford, W., Hagan, C.) To provide for firearms training for tactical medical professionals; to permit such a professional who has received that training and has been authorized by the law enforcement agency to carry firearms while on duty; and to grant such a professional the same right to carry a concealed handgun in this state as a concealed handgun licensee. (2nd Hearing-Proponent)

~~Canceled: House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 11 a.m.~~

- If needed

~~Canceled: Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.~~

- If needed

House Rules & Reference (Committee Record) (Chr. Rosenberger, C., 466-3506), Rm. 119, 11:30 a.m.

House Criminal Justice (Committee Record) (Chr. Manning, N., 644-5076), Rm. 114, 1:30 p.m.

HB 56 **HUMAN TRAFFICKING** (Dever, J., Gavarone, T.) To permit a person who is found not guilty or is the defendant in a dismissed case to apply for an expungement of the person's records in the case if the complaint, indictment, or finding of not guilty resulted from the applicant having been a victim of human trafficking, to permit a person convicted of certain prostitution-related offenses to apply for the expungement of any record of conviction of an offense, with certain exceptions, if the person's participation in the offense was a result of having been a victim of human trafficking, and to authorize intervention in lieu of conviction for persons charged with committing an offense while a victim of compelling prostitution. (3rd Hearing-All testimony-Possible substitute & vote)

SB 4 **HUMAN TRAFFICKING** (Kunze, S., Oelslager, S.) To allow a person who is found not guilty of an offense or who is the defendant named in a dismissed criminal charge to apply for a court order to expunge the person's official records in the case if the charge or not guilty finding was the result of the applicant having been a human trafficking victim, to allow a person convicted of certain prostitution-related offenses to apply for the expungement of the conviction record of any offense, other than a specified disqualifying offense, the person's participation in which was a result of having been a human trafficking victim; and to allow intervention in lieu of conviction for persons charged with committing an offense while a victim of compelling prostitution. (3rd Hearing-All testimony-Possible substitute & vote)

HB 96 **SEX OFFENSES (Hughes, J.)** To increase the penalty for sexual imposition when the offender previously has been convicted or pleaded guilty three or more times of any of several specified sex offenses and to repeal the corroboration requirement for a sexual imposition conviction. (3rd Hearing-All testimony-Possible substitute, amendments & vote)

HB 389 **DEATH PENALTY (Antonio, N.)** To abolish the death penalty. (1st Hearing-Sponsor)

HB 423 **MASKED INTIMIDATION (Lang, G., Seitz, B.)** To create the crime of masked intimidation, a misdemeanor of the first degree. (1st Hearing-All testimony)

HB 365 **PAROLE MONITORING (Hughes, J., Boggs, K.)** To provide for indefinite prison terms for first or second degree felonies and specified third degree felonies, with presumptive release of offenders sentenced to such a term at the end of the minimum term; to generally allow the Department of Rehabilitation and Correction to reduce the minimum term for exceptional conduct or adjustment to incarceration; to allow the Department to rebut the release presumption and keep the offender in prison up to the maximum term if it makes specified findings; to require the Department to establish a reentry program for all offenders released from prison who it intends to have reside in a halfway house or similar facility but who are not accepted by any such facility; to require the Adult Parole Authority to establish maximum work-load and case-load standards for its parole and field officers and have enough trained officers to comply with the standards; to require that GPS monitoring used for offenders released from prison under such monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones; to require the Department to establish system requirements for GPS monitoring of such offenders by the Department or third-party contract administrators; to require the Department to operate a statewide database for law enforcement use containing specified information about such offenders; to require that third-party administrators for GPS monitoring under a new contract with the Department provide and use a law enforcement-accessible crime scene correlation program; and to name the act's provisions the Reagan Tokes Act. (4th Hearing-All testimony)

HB 405 **COUNTERFEITING (Perales, R.)** To create the offense of counterfeiting and to include counterfeiting within the definition of "corrupt activity" under the Corrupt Activities Law. (2nd Hearing-Proponent)

HB 276 **UTILITY WORKERS (Rezabek, J., Greenspan, D.)** To expand the offense of aggravated menacing to prohibit threatening a utility worker with intent to obstruct the operation of a utility. (3rd Hearing-All testimony-Possible substitute)

House Economic Development, Commerce & Labor (Committee Record) (Chr. Young, R., 644-6074), Rm. 113, 1:30 p.m.

HB 392 **APIARY DAMAGES (Stein, D.)** To grant specified apiary owners immunity in personal injury or property damage cases. (3rd Hearing-Opponent)

HB 164 **ROOFING CONTRACTORS (Patton, T.)** To require commercial roofing contractors to have a license. (3rd Hearing-Opponent)

~~Canceled: Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.~~

- If needed

House State & Local Government (Committee Record) (Chr. Anielski, M., 644-6041), Rm. 017, 2:30 p.m.

HB 359 STATE FLAG (Stein, D.) To create a suggested ceremonial procedure for retiring an Ohio state flag. (3rd Hearing-All testimony-Possible vote)

HB 370 STATE SEAL (Perales, R.) To add a representation of the Wright Brothers' first piloted airplane to the Coat of Arms and Great Seal of the State of Ohio. (3rd Hearing-All testimony-Possible vote)

HB 146 DEATH CERTIFICATES (Householder, L.) To allow a coroner to change the cause, manner, and mode of death in a filed death certificate only after a hearing in the court of common pleas. (4th Hearing-All testimony)

HB 298 SICK DAYS (Merrin, D.) To make changes with respect to the number of sick days provided to public employees. (1st Hearing-Sponsor)

HB 415 ROAD IMPROVEMENTS (Greenspan, D., Ryan, S.) To allocate one-half of any surplus revenue to a new Local Government Road Improvement Fund, from which money will be distributed directly to local governments to fund road improvements. (2nd Hearing-All testimony)

House Public Utilities (Committee Record) (Chr. Cupp, R., 466-9624), Rm. 116, 3 p.m.

HB 381 NUCLEAR ENERGY (DeVitis, T.) Regarding the zero-emissions nuclear resource program. (1st Hearing-Sponsor)

HB 247 UTILITY LAW (Romanchuk, M.) To require refunds to utility customers who have been improperly charged, to eliminate electric security plans and require all electric standard service offers to be delivered through market-rate offers, and to strengthen corporate separation requirements. (4th Hearing-Opponent & interested party)

Senate Government Oversight & Reform (Committee Record) (Chr. Coley, B., 466-8072), Finance Hearing Rm., 3 p.m.

SB 234 FIREARM OWNERSHIP (LaRose, F.) Regarding a tenant of subsidized rental premises owning, using, or possessing a firearm, a firearm component, or ammunition within the tenant's residential dwelling unit. (1st Hearing-Sponsor)

HB 122 ECONOMIC DEVELOPMENT (Hambley, S., Rogers, J.) To establish a Regional Economic Development Alliance Study Committee to study the benefits and challenges involved in creating regional economic development alliances. (1st Hearing-Sponsor)

SB 220 CYBERSECURITY (Hackett, B., Bacon, K.) To provide a legal safe harbor to covered entities that implement a specified cybersecurity program. (1st Hearing-Sponsor)

HB 142 CONCEALED WEAPONS (Wiggam, S., Holmes, G.) To modify the requirement that a concealed handgun licensee notify a law enforcement officer that the licensee is carrying a concealed handgun when stopped. (1st Hearing-Sponsor)

SB 28 ABORTION (Uecker, J.) Regarding final disposition of fetal remains from surgical abortions. (2nd Hearing-Proponent)

SB 129 COSMETOLOGY LAW (Jordan, K., Tavares, C.) To make changes to the Cosmetology Licensing Law. (2nd Hearing-Proponent)

Senate Health, Human Services & Medicaid (Committee Record) (Chr. Burke, D., 466-8049), South Hearing Rm., 3:15 p.m.

- SB 193** LONG-TERM CARE (Tavares, C.) To create a long-term care inspection committee. (1st Hearing-Sponsor)
- SB 233** COTTAGE FOOD PRODUCTION (Thomas, C.) To allow a cottage food production operator to use a firebrick oven located on a patio at the operator's residence for purposes of the cottage food production operation (1st Hearing-Sponsor)
- SB 229** CONTROLLED SUBSTANCES (Eklund, J.) To modify laws pertaining to the State Board of Pharmacy and the regulation of controlled substances. (2nd Hearing-Proponent)
- HB 196** AWARENESS MONTH (Lipps, S.) To designate October as "Ohio Chiropractic Awareness Month." (3rd Hearing-All testimony-Possible vote)
- HB 145** CONFIDENTIAL TREATMENT (Huffman, S., Sprague, R.) To provide for the establishment of a confidential program for the treatment of certain impaired practitioners and to declare an emergency. (3rd Hearing-All testimony-Possible vote)
- HB 214** ABORTION (LaTourette, S., Merrin, D.) To prohibit a person from performing, inducing, or attempting to perform or induce an abortion on a pregnant woman who is seeking the abortion because an unborn child has or may have Down Syndrome. (1st Hearing-All testimony-Possible vote)

House Education & Career Readiness (Committee Record) (Chr. Brenner, A., 644-6711), Rm. 121, 4 p.m.

- HB 377** SEXUAL ABUSE (Hagan, C., Ramos, D.) With respect to age-appropriate student instruction in child sexual abuse and sexual violence prevention and in-service staff training in child sexual abuse prevention. (2nd Hearing-Sponsor & proponent)
- HB 246** CLASSROOM FACILITIES (Boccieri, J., Rezabek, J.) To require the Ohio School Facilities Commission to provide funding to certain county boards of developmental disabilities to assist in the acquisition of classroom facilities. (2nd Hearing-Proponent-Possible substitute)
- HB 360** BULLYING (Greenspan, D.) To enact the "Ohio Anti-Bullying and Hazing Act" with regard to school discipline and bullying and hazing policies at public schools and public colleges. (3rd Hearing-Opponent & interested party)
- HB 108** FINANCIAL LITERACY (Hagan, C., McColley, R.) To require one-half unit of financial literacy in the high school curriculum, to require the Chancellor of Higher Education to prepare an informed student document for each institution of higher education, to require the State Board of Education to include information on the informed student document in the standards and model curricula it creates for financial literacy and entrepreneurship, and to entitle the act the "Informed Student Document Act." (4th Hearing-All testimony-Possible amendments)

Wednesday, December 13

House Health (Committee Record) (Chr. Huffman, S., 466-8114), Rm. 121, 9 a.m.

- HB 172** **MEDICAL RECORDS** (Schuring, K.) To modify the laws governing access to a patient's medical records. (5th Hearing-Possible amendments & vote)
- HB 191** **NURSE ANESTHETISTS** (Gonzales, A.) Regarding the practice of certified registered nurse anesthetists. (2nd Hearing-Proponent)
- HB 258** **ABORTION** (Hagan, C., Hood, R.) To generally prohibit an abortion of an unborn human individual with a detectable heartbeat and to create the Joint Legislative Committee on Adoption Promotion and Support. (4th Hearing-Possible vote)
Senate Ways & Means (Committee Record) (Chr. Eklund, J., 644-7718), South Hearing Rm., 9 a.m.
- HB 69** **TIF DISTRICTS** (Cupp, R.) To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district. (7th Hearing-All testimony-Possible amendments & vote)
Senate Education (Committee Record) (Chr. Lehner, P., 466-4538), North Hearing Rm., 9:45 a.m.
- SB 216** **SCHOOL REGULATIONS** (Huffman, M.) To enact the "Ohio Public School Deregulation Act" regarding the administration of preschool and primary and secondary education programs. (4th Hearing-All testimony)
House Insurance (Committee Record) (Chr. Brinkman, T., 644-6886), Rm. 116, 10 a.m.
- HB 156** **VISION CARE INSURANCE** (Schuring, K.) Regarding limitations imposed by health insurers on vision care services. (5th Hearing-All testimony-Possible substitute)
- HB 268** **WORKERS COMPENSATION** (Henne, M.) To make changes to the Workers' Compensation Law with respect to self-insuring employers. (3rd Hearing-Opponent)
- HB 269** **WORKERS COMPENSATION** (Henne, M.) To rename the entities who carry out workers' compensation functions in this state, to require the Administrator of Worker Safety and Rehabilitation to develop incentives for employers to participate in safety consultations and loss prevention programs, to require an employee who is receiving temporary total disability compensation to comply with a return to work plan, and to make changes with respect to compensation for permanent total disability and death benefits. (3rd Hearing-Opponent)
- HB 416** **HEALTH SERVICE PRICES** (Huffman, S.) Regarding the provision of cost estimates for scheduled health care services and health care services requiring insurer preauthorization. (1st Hearing-Sponsor)
House Transportation & Public Safety (Committee Record) (Chr. Green, D., 644-6034), Rm. 017, 10 a.m.
- SB 6** **BRIDGE PROGRAM** (Hoagland, F.) To extend the Ohio Bridge Partnership Program through the end of fiscal year 2019 and to require the Director of Transportation to submit a report to the Governor, Senate, and House of Representatives recommending ways to continue to fund the program. (1st Hearing-Sponsor)
- SB 134** **ROAD NAMING** (Gardner, R.) To designate a portion of State Route 795 in Wood County as the "Lt Col Thomas P. Belkofer Memorial Highway." (1st Hearing-All testimony)

HB 190 **RAIL CROSSINGS** (Lepore-Hagan, M., Schuring, K.) To require vehicle operators to watch, listen, and stop for on-track equipment that may be approaching a railroad crossing. (4th Hearing-All testimony-Possible vote)

HB 250 **ELECTRIC BICYCLES** (Brinkman, T.) To establish requirements for the use of electric bicycles. (4th Hearing-All testimony-Possible vote)

HB 347 **ROAD NAMING** (Kelly, B., Dever, J.) To designate a portion of I-71 in Hamilton County as the "Sonny L. Kim Memorial Highway." (1st Hearing-All testimony-Possible vote)

HB 293 **DRIVER'S LICENSES** (Scherer, G., Sheehy, M.) To require a person to hold a temporary instruction permit for one year before obtaining a probationary driver's license and to alter the time periods during which the holder of a temporary instruction permit or probationary driver's license is prohibited from operating a motor vehicle without being accompanied by a parent or guardian. (2nd Hearing-Proponent)

HB 384 **VEHICLE TOWING** (Gonzales, A.) To require only one notice to be sent to a vehicle owner and any known lienholder after a vehicle is towed from a private tow-away zone. (2nd Hearing-Proponent)

Senate Transportation, Commerce & Workforce (Committee Record) (Chr. LaRose, F., 466-4823), South Hearing Rm., 10:15 a.m.

SB 230 **LICENSE PLATE** (Obhof, L.) To create the "Medina County" license plate. (1st Hearing-All testimony-Possible vote)

SB 61 **PUBLIC TRANSPORTATION** (Skindell, M.) Related to public transportation. (1st Hearing-Sponsor)

SB 101 **EMPLOYMENT PRACTICES** (Skindell, M.) To regulate certain employment practices of formula retail establishment employers, food services establishment employers, and contractors and to require the purchaser of a formula retail establishment or food services establishment to retain certain employees of the establishment on transfer of ownership. (1st Hearing-Sponsor)

HB 76 **LICENSE PLATES** (Arndt, S., Gavarone, T.) To create the "Ohio National Guard Ohio Cross" license plate and the "Ottawa National Wildlife Refuge" license plate. (2nd Hearing-Proponent)

HB 10 **CROWDFUNDING** (Arndt, S.) To permit intrastate equity crowdfunding under certain circumstances. (2nd Hearing-Possible amendments & vote)

Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.

House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 1:30 p.m.

Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.

House Aging & Long Term Care (Committee Record) (Chr. Arndt, S., 644-6011), Rm. 122, 2:30 p.m. or after session

HB 413 **OPERS BENEFITS** (Scherer, G.) Regarding Public Employees Retirement System (PERS) annual cost-of-living adjustments granted to allowance and benefit recipients and PERS service credit for services as a nonteaching school employee of a county board of developmental disabilities. (2nd Hearing-Proponent)

House Federalism & Interstate Relations (Committee Record) (Chr. Roegner, K., 466-1177), Rm. 115, 3 p.m. or after session

HB 228 **GUN LAWS** (Johnson, T., LaTourette, S.) To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises. (2nd Hearing-Possible amendments & substitute)

House Community & Family Advancement (Committee Record) (Chr. Ginter, T., 466-8022), Rm. 114, 3 p.m. or after session

HB 340 **PUBLIC ASSISTANCE** (Young, R.) Regarding the release of information concerning public and medical assistance recipients. (5th Hearing-Possible vote)

HB 64 **RECORD EXPUNGEMENT** (Schuring, K., Reece, A.) To provide for the expungement of official records related to the apprehension, arrest, criminal charging, or trial of a person based on mistaken identity. (6th Hearing-Possible amendments & vote)

HB 309 **PARENTAL RIGHTS** (Gonzales, A., Rezabek, J.) To generally prohibit a person's blindness from being used to deny or limit custody, parenting time, visitation, adoption, or service as a guardian or foster caregiver, regarding a minor. (4th Hearing-Possible vote)

HB 383 **CHILD CARE** (Carfagna, R.) Regarding parental notice of serious risks to the health or safety of children receiving child care. (3rd Hearing-All testimony)

HB 366 **CHILD SUPPORT** (Gavarone, T.) To make changes to the laws governing child support. (3rd Hearing-Opponent)

Thursday, December 14

Joint Medicaid Oversight Committee (Committee Record) (Chr. Huffman, S., 466-7584), Rm. 313, 9 a.m.

- Behavioral Health Redesign Update from Barbara Sears, Director, Ohio Department of Medicaid and Tracy Plouck, Director, Ohio Department of Mental Health and Addiction Services

~~Canceled: Ohio Retirement Study Council (Committee Record) (Chr. Schuring, K., 228-1346), Rm. 121, 10 a.m.~~

~~Canceled: House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 11 a.m.~~

- If needed


Tuesday, December 19

Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.

- If needed
- Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.
- If needed

Wednesday, December 20

Joint Education Oversight Committee (Committee Record) (Chr. Cupp, R., 466-8150), 77 S. High St., Rm. 1948, 1 p.m.

NOTE: Click bill or resolution number links to see the legislative history compiled by Gongwer News Service. Click the  after a bill number to create a saved search and email alert for that bill. Click "Full Text" if present to view the text of legislation on the Legislature's Web site.

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Event Planner

Monday, December 11

News conference to announce marijuana legalization ballot issue, TBA, Columbus, 11 a.m.

Tuesday, December 12

State Auditor Dave Yost news conference on financial health indicators, Harding Briefing Room, Statehouse, Columbus, 10:30 a.m.

Rep. Ryan Smith (R-Bidwell) fundraiser, Smith Brothers Hardware Building, Juniper Rm., 580 N. Fourth St., Columbus, 5:30 p.m., (\$500 to Friends of Ryan Smith)

Wednesday, December 13

Rep. Bernadine Kent (D-Columbus) fundraiser, Einstein Bros. Bagels, 41 S. High Street, Columbus, 8 a.m., (Sponsor \$1000, Host \$500, Friend \$350 to Kent for Ohio)

Rep. George Lang (R-West Chester Twp.) fundraiser, Due Amici, 67 E. Gay St., Columbus, 11:30 a.m., (Sponsor: \$1,000; Host: \$500; Guest: \$350 to Friends of George Lang)

Tuesday, December 19

Rep. Theresa Gavarone (R-Bowling Green) fundraiser, Holiday Inn French Quarter, 10630 Fremont Pike, Perrysburg, 5 p.m., (Special guest Rep Ryan Smith. Host \$1,000, Sponsor \$500, Patron \$250 to Citizens for Gavarone)

Wednesday, February 7

Deadline for candidates to file for the primary election

Wednesday, February 28

Ohio Cable Telecommunications Association Legislative Luncheon, Renaissance Hotel, 50 N. 3rd St., Columbus, 12 p.m.

Tuesday, May 8

Primary election day

Tuesday, May 22

Ohio Cable Telecommunications Association Legislative Reception & Technology Demo, 77 S. High St., Capitol Theater Lobby, Columbus, 5 p.m.

Monday, June 25

**Ohio Cable Telecommunications Association Golf Outing, The Lakes, 6740
Worthington Rd., Westerville**

Tuesday, November 6

General election day

General election day

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OHIO REPORT FRIDAY, DECEMBER 8

No December Action Planned On Controversial Energy Standards, Cost Recovery Bills

Report Sees Social, Economic Factors As Essential In Combating Infant Mortality

O'Neill To Step Down Next Month, Though Many Believe He Should Already Be Gone

Fedor Eyes Former Senate Seat As Fellow Toledo Lawmakers Look To Return To Local Posts

DP&L Supreme Court Case Brings Ratemaking Refunds, Judicial Authority To Forefront

Advocates Credit Housing, Rapid Intervention Strategies With Decline In Homelessness

Ohio Interests Weigh In On Pending Federal Net Neutrality Ruling

DeWine, Great Lakes Advocates Call For Greater Action Against Asian Carp

Complaint Filed Against Judge Salerno; Attorneys Disciplined; Ohio Groups Weigh In On Public Sector Union Case; SB33 Praised...

Renacci Goes On Attack Over Medical Pot; AFP Hits DeWine On Crew Threat; Rubio Backs Gonzalez; GA Member Endorses Whaley...

Report Shows Higher Ed Has \$7.3 Billion Impact On Southwest Ohio; Fordham Analyzes Report Cards; YSU Announces Tuition Guarantee...

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Supplemental Event Planner

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Day Planner

Legislative Committee Schedules

Event Planner

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Volume #86, Report #236 -- Friday, December 8, 2017

No December Action Planned On Controversial Energy Standards, Cost Recovery Bills

House and Senate committees will not vote this month to advance controversial bills to weaken the state's renewable energy standards or grant cost recovery for Ohio Valley Electric Plants and FirstEnergy nuclear plants.

That's according to lawmakers in both chambers as they eye wrapping up some committee business before the General Assembly breaks for the holiday season at the end of next week.

In the Senate, Sen. Troy Balderson (R-Zanesville) said his Senate Energy & Natural Resources Committee will not meet, meaning that Senate President Larry Obhof's prior remarks that the energy standards bill (HB 114) may be reported out of committee this month won't come to fruition. (See Gongwer Ohio Report, November 22, 2017)

Still, Sen. Balderson said in an interview that Sen. Obhof's remarks got the ball rolling once again in earnest as stakeholders and lawmakers continue hashing out details of the bill.

"That got the conversation going again and that's what we wanted to do so that conversation is back up and running," he said. "They've been going along but they're a little bit more aggressive than they have been."

The bill, which would make current energy standards optional and reduce energy efficiency standards, has drawn wide criticism from environmental and clean energy groups. (See Gongwer Ohio Report, October 18, 2017)

It's a more far-reaching approach than last year's legislative attempt (HB554D, 131st General Assembly) which was vetoed by Gov. John Kasich. Sen. Balderson said talks with the Kasich Administration on the bill are ongoing. (See Gongwer Ohio Report, December 27, 2016)

"It's the administration, it's the interested parties, it's our caucus members who are now becoming engaged," Sen. Balderson said of talks. "(Caucus members) were always engaged but we're also working with them and trying to get a feel where they are on that."

Sen. Obhof previously said that if a December committee vote didn't take place the caucus would be eying action on the matter "quickly thereafter."

OVEC & ZEN: Cost recovery bills in both chambers are also poised for inaction this month. The OVEC proposal (HB 239 & SB 155) has been the most likely of the two bills to move forward, according to Republicans, and House lawmakers say they're still trying to achieve a consensus among the caucus regarding the bill's future.

"The OVEC bill I think is a place we're going to continue to see what we can do and have some conversations, continue to make some tweaks," House Speaker Cliff Rosenberger (R-Clarksville) said. "We're trying our best to continue to work on that so we'll see what happens."

The zero-emission nuclear credits legislation, meanwhile, is also unlikely to advance this month, although House Public Utilities Committee Chairman Rep. Robert Cupp said he will give the newer of the two House proposals a first hearing next week.

Rep. Anthony DeVitis (R-Green) has two bills (HB 178 & HB 381) - the first of which has received three hearings before Rep. Cupp's committee. The Senate version (SB 128) from Rep. Frank LaRose (R-Hudson), meanwhile, was last heard by the Senate Public Utilities Committee in October for its fourth hearing.

FirstEnergy CEO Chuck Jones has told investors he anticipates the bill will pass in early 2018. (See Gongwer Ohio Report, October 27, 2017)

On the Senate side, Sen. Bill Beagle (R-Tipp City), chairman of the committee reviewing both the OVEC and ZEN proposals, said if his committee does meet next week no votes are planned.

Both the House and Senate OVEC bills have had six hearings in their respective committees. Rep. Rick Carfagna (R-Westerville) and Rep. Ryan Smith (R-Bidwell) as cosponsoring the House effort while Sen. Lou Terhar (R-Cincinnati) and Sen. Bob Peterson (R-Sabina) are lead sponsors for the Senate version.

Opponents blasted both bills as a bailout of outdated coal plants, but OVEC utility owners say the bill would ensure parity for OVEC owners in Ohio and beyond.

Rep. Carfagna said in an interview little has changed since the October hearing in which he said just about all the changes that can be made to the bill to enlist support have already been made.

"The chairman's been talking to members on committee, seeing where the votes are and if there are no votes what is their specific hang up," Rep. Carfagna said. "Is it something that can be addressed through a specific language tweak and if so what is that."

He added: "I don't expect any movement before year end."

Asked about the status of the bill, committee Chairman Cupp (R-Lima) replied, "I have nothing to report. It's sort of static."

Report Sees Social, Economic Factors As Essential In Combating Infant Mortality

Infant mortality is largely driven by non-clinical factors such as housing and transportation, according to a state-funded report issued by the Health Policy Institute of Ohio.

The report was commissioned as part of legislation passed last year (SB332, 131st General Assembly) to examine the factors that influence the health of infants and their families, particularly those outside of the health care system.

Researchers looked at Ohio's housing, transportation, education and employment policies and how they related to infant mortality. The report found the state lacks sufficient low-income housing and that its cities are highly segregated, leading to poor birth outcomes due to crime and low-quality housing. Transportation options in the state are also limited.

Racial disparities in infant mortality (mortality among black infants is nearly three times that of white infants) align with disparities in other areas, such as employment and transportation access, the report said.

The researchers also looked at policies and outcomes in other states that have made faster progress in reducing infant deaths, including black infant deaths. Tennessee, for example, launched a scholarship program and other policies to improve education outcomes, while New York implemented tax credits to boost family incomes.

Cross-cutting policy recommendations included that the state should evaluate the effectiveness of policies and programs that serve Ohioans most at risk for infant mortality and target local leadership and advocacy for addressing the social determinants of health.

"Legislators, community leaders, clinicians and other stakeholders are concerned about Ohio's infant mortality rate and are particularly troubled that some babies face worse odds than others at the beginning of life," the report said. "While healthcare providers play a key role in improving infant outcomes, access to quality health care is necessary, but not sufficient. Improvements to factors beyond medical care are needed to achieve infant mortality reduction goals and to overcome the inequities and community conditions driving Ohio's worsening infant mortality rates and large disparities."

"Addressing the social drivers of poor health, such as housing, education, employment and transportation, holds promise for preventing infant mortality," the report continued.

Brandi Slaughter, CEO of Voices for Ohio's Children, said the report confirmed that infant mortality can't be addressed without dealing with social determinants of health.

Addressing infant mortality means dealing with homelessness, housing issues and employment, she said.

"Those aren't the easy things to address," she said in an interview. "Those are the things that are going to take some innovative solutions to get to."

One program she emphasized was home visiting, in which social workers, nurses or others visit pregnant women and new mothers in their homes and are able to see and help address those issues. Home visiting is supported by programs at the state and federal level, Ms. Slaughter said.

"It can't be stressed enough how important investments to those programs are," she said. "They meet in their home to address those very things, the social determinants."

A key issue at the moment is the congressional reauthorization of the Children's Health Insurance Program and the Maternal, Infant and Early Childhood Home Visiting Program, she said. Those two programs provide funding for pregnant women and new parents and play a significant role in fighting infant mortality.

Ms. Slaughter said future efforts to combat infant mortality need to focus on economic and other conditions, not just health care.

"This report, to me, screams that it's the social determinants of health, it's the economic conditions, that we have to begin to address," she said.

The HPIO was chosen in May as the contractor to prepare the report, and was paid \$176,349 for the study, according to the Legislative Service Commission. (See Gongwer Ohio Report, May 12, 2017)

O'Neill To Step Down Next Month, Though Many Believe He Should Already Be Gone

Ohio Supreme Court Justice Bill O'Neill plans to step down from his seat on the bench on Jan. 26, he announced Friday.

The Democratic gubernatorial candidate said his candidacy will become official that day by naming a running mate and filing petitions with the secretary of state's office.



Justice O'Neill

"Ohio is in a war with the pharmaceutical industry and organized crime and people are dying. Ohio is in a struggle with a broken educational system and the children are suffering," he said. "And older citizens are truly frightened that all their years of work are going to end in a sea of poverty. It is time to end the wave of hopelessness in Ohio."

In announcing his future resignation, Justice O'Neill also laid out his policy agenda if elected, including legalizing marijuana and using the revenue to fight the opioid epidemic; raising the minimum wage to \$15 per hour; installing solar panels on all government buildings; providing tax credits for all solar panels made in Ohio; building a high-speed rail system connecting Cleveland and Cincinnati; and creating a task force designed to rein in the cost of higher education.

"On Oct. 29 I gave the people of Ohio a vision for the future that has motivated and inspired me to leave the Ohio Supreme Court and become the next Governor of Ohio," he said. "I call it The O'Neill Plan."

Many people, Chief Justice Maureen O'Connor, believe that Justice O'Neill should have resigned from the court on that date.

"I suspect we are in agreement on that point. Be that as it may, under no circumstances will Bill be able to say that the Supreme Court agrees, approves, or condones his court of action to remain on the court," she wrote in an email to other members of the court. "Simply put we have no mechanism in place to remove a justice when one becomes a partisan candidate. Going forward, should we revisit some of our Rules of Judicial Conduct? I think that's a definite yes."

Chief Justice O'Connor also wrote that she disagrees with her colleague's interpretation of the Rules of Judicial Conduct, which he elaborated on in a Nov. 2 letter to her.

"I believe in compliance with Rule 4.5 of the Code of Judicial Conduct that upon the filing of petitions or the raising of campaign contributions I will become a candidate," Justice O'Neill wrote. "Anything prior to that time is constitutionally protected free speech."

Rep. Niraj Antani (R-Miamisburg), who has spearheaded a legislative effort to remove Justice O'Neill from the bench, also said he should have stepped down the day he announced his intention to run for governor.

"While I am pleased to see Justice O'Neill listen to my demand for him to step down from the bench or be removed, the reality is this resignation announcement is long overdue. As indicated by my House resolution that would remove him from the court, Bill O'Neill should have immediately removed himself from the Ohio Supreme Court the minute he declared himself a gubernatorial candidate, as is constitutionally required," he said.

"For over a month, O'Neill has left Ohio in a constitutional crisis. Unfortunately, for him to resign on Jan. 26 is unacceptable; it would leave justice unserved at the highest level for another seven weeks."

State Auditor Dave Yost has also been an outspoken critic of the justice's candidacy, most recently blasting him for not removing himself from the race when Rich Cordray entered, as he once said he would do.

"While Bill O'Neill had a campaign manager, has a campaign website and made a formal announcement of candidacy, he is being untruthful and claiming he is not a candidate," Mr. Yost said. "Now Ohioans are finding out he was just shining them on about quitting the race when Cordray became a candidate. Whatever else he says, the next words out of his mouth should be 'I resign.'"

The Ohio State Bar Association also said Mr. O'Neill should leave his seat immediately.

"As a declared candidate for governor with a published campaign platform, recusal is insufficient to remove any appearance of conflict or impropriety," OSBA President Randall Comer said. "Moving forward, we intend to work in concert with the Ohio Supreme Court and other interested parties to avoid future controversies of this nature."

While Justice O'Neill has been complimentary of Mr. Cordray, saying he would make a good governor, the former leader of the Consumer Financial Protection Bureau did not return the favor Friday.

"My vision is focused on the kitchen table issues that Ohioans and their families care about. Bill O'Neill is a loose cannon who callously disrespects women, embarrassing our party and our state. There's no place for that in this race," he wrote in a Tweet, referencing the controversy the justice created with a Facebook post last month. (See Gongwer Ohio Report, November 17, 2017)

The justice in an interview quipped that the "loose cannon" reference was due to the fact that he earned a Bronze Star for his service in the Vietnam War.

"I guess Rich has made a decision," he said. "He doesn't want to take about legalization of marijuana and saving 10 lives a day."

Senate President Larry Obhof (R-Medina) indicated that the upper chamber has the votes necessary to remove Justice O'Neill. (See Gongwer Ohio Report, December 7, 2017)

Fedor Eyes Former Senate Seat As Fellow Toledo Lawmakers Look To Return To Local Posts

Some familiar faces will be missing from the ballots of Toledo-area voters next year as Sen. Edna Brown is not attempting to swap seats with Rep. Mike Ashford, who is looking to fill a local vacancy.

"I know I could run for my old House seat, but I don't plan to do that," Sen. Brown said. "I kind of am tired of the long drive to Columbus weekly."

The term-limited Democrat who has served in the legislature since 2002 said she'd like to get back to her local roots and spend more time volunteering.

"I would love after I'm done here to serve in a policy position, maybe back on city council again," she said.

Rep. Teresa Fedor (D-Toledo) said she will file to run for Sen. Brown's seat, which she previously held from 2003-10.

She's been on a listening tour of sorts to learn what issues will be key to 11th Senate District residents in 2018 and beyond, she said.

"There seems to be a great concern on cleaning up the algae in my district, modernizing education to meet the jobs for the future and continuing my work on fighting against human trafficking," Rep. Fedor said.

"I'm just as concerned as they are about these issues and I do understand the challenges," she added. "I believe I bring experience and accomplishments with me to continue fighting for those issues that are important."

Sen. Brown said she would likely support Rep. Fedor to replace her in the Senate.

"She was very supportive of me when I ran for the seat and so I will be supporting her, I think," Sen. Brown said.

Though there has been talk of term-limited Rep. Ashford also considering a run for the open Senate seat, he said he's currently pursuing an appointment to become Lucas County treasurer.

The Democrat expressed optimism about his January interview for the spot, which will come open when the current treasurer is sworn in as Toledo mayor.

"Until then, my number one concern and commitment is to continue to serve as the ranking member of Public Utilities (Committee) and serve on the various committees I sit on," Rep. Ashford said. "I'll continue to do my work as the state representative right up until the interviews and then we'll just take it from there."

If he were to resign early to take the treasurer position, the application process to appoint his successor could provide insight into who is considering a run for the seat.

As of now, no candidates have come forward for Rep. Fedor's 45th House District or Rep. Ashford's 44th House District.

The historically left-leaning seats typically draw candidates who are serving on Toledo City Council, and it's expected that will again be the case in 2018.

Discussions of potential contenders include outgoing Mayor Paula Hicks-Hudson, who lost her November re-election bid, and council members Tyrone Riley, Lindsay Webb and Yvonne Harper.

DP&L Supreme Court Case Brings Ratemaking Refunds, Judicial Authority To Forefront

Members of the Ohio Supreme Court are questioning whether a contested Public Utilities Commission of Ohio ruling could undermine the court's authority.

That debate played out during oral arguments this week in a case brought by the Ohio Consumers' Counsel centered on a previous electric security plan from Dayton Power and Light.

At the heart of the closely-watched case is a key question that is also unfolding separately in discussions over a pending House bill: Should consumers be refunded for rate charges the court ultimately rules illegal? (Court Docket)

That pending bill from Rep. Mark Romanchuk (HB 247) is currently before the House Public Utilities Committee and is scheduled for a fourth hearing Tuesday. The legislation would also ban utilities from using electric security plans, or ESPs, like the one at the core of this case.

In June 2016, the court overturned a PUCO ruling and found charges in the company's ESP were unlawful. The commission then permitted the company to withdraw its plan

from before the commission but the OCC says customers had already lost out on tens of millions of dollars by that point.

"Through a regulatory sleight of hand the court's ruling was undercut by the PUCO and customers paid, not saved, more than \$80 million," said Maureen Willis, counsel for the OCC. "And that was unlawful."

Speaking for the PUCO, counsel Thomas McNamee told justices the case is moot because the ESP in question has already been replaced and new rates have been implemented.

Even with new rates in effect, however, justices asked whether the PUCO's actions undermine the authority of the judicial branch. Would a ruling in favor of the PUCO, they asked, render the court's review of such cases meaningless?

"If we don't adopt the view that is being expressed by Consumers' Counsel then we have in effect made ourselves moot because...a utility can withdraw the plan that we have ruled on and they can propose a subsequent plan and the commission can adopt that," Justice Terrence O'Donnell said, summarizing the OCC's argument.

"The statutory scheme here is very clear," Mr. McNamee replied. "When the commission modifies and approves an ESP plan the company has the ability to terminate that plan. That happened twice in this instance."

"But does that make our review meaningless?" Justice O'Donnell pressed.

"Only in a very unusual circumstance, I would say," Mr. McNamee answered.

Justice Patrick Fischer questioned how likely there is for a recurrence in which a party withdraws a proposal and thereby potentially ignores a prior court order.

"Could it be replicated? I guess it could," Mr. McNamee said. "Even if they do I think the difficulty here isn't that the court's decisions are unable to be affected generally. Perhaps it's the timing of the things here that caused the concern in this instance and that's unique to this case."

The question of refunds adds another wrinkle thanks to a 1957 ruling in *Keco Industries, Inc. v. Cincinnati & Suburban Bell Tel. Co.* The court found then that rates are lawful until the time a court deems otherwise. That prevents refunds for unlawful rates collected prior to the court's determination, which critics say is unfair.

As a result, the OCC is seeking that those improper rate dollars be accounted for in future DP&L rates in an effort to make customers whole. But Justice Judith French questioned how that approach might gel with the *Keco* precedent.

Ms. Willis said the case at hand could be seen as different from *Keco* because the rates in the 1957 case were lawful. That's not so in the case before the court, she said.

"The court issued its mandate," she said. "The PUCO did not carry out the mandate. So there were unlawful rates from the get go. ... If the court does not settle on that distinction the court can also apply *Keco* with flexibility."

Another alternative, she said, would be to overturn *Keco* entirely.

Regarding appellants' push to compensate for past charges, Mr. McNamee said that's not how ratemaking works. "Ratemaking is forward looking," he said. "You don't look to the past and try to correct mistakes that have been made in the past."

"So that would just be a windfall for the company?" Justice O'Donnell said.

Whether it is or not, Mr. McNamee said, is a factor under the purview of the legislature.

"The statutory mechanism that's been created to deal with that possibility is the stay that's allowed pursuant to statute," Mr. McNamee responded. "That's in the General Assembly's discretion in setting up this mechanism. That's what they created. People may argue whether it's an adequate tool."

During the proceeding, DP&L attorney Thomas Sharkey also defended the *Keco* ruling, saying it achieves a balance in the interests of all parties in part because the utility is unable to recover increased costs until years after due to the lengthy ratemaking process.

Advocates Credit Housing, Rapid Intervention Strategies With Decline In Homelessness

The number of people experiencing homelessness in Ohio on a single night early this year found the number down 3% compared to 2016. The change was part of a broader decrease that advocates attributed to improved strategies to address the problem.

While those strategies, such as permanent supportive housing, are working to combat long-term homelessness, economic trends such as rising rents and stagnant incomes are making housing less affordable.

The count, released this week by the U.S. Department of Housing and Urban Development, found 10,095 people homeless in Ohio in the annual one-day, point-in-time count, down 19.7% from 2010. The HUD report identified 8,786 were in emergency shelters or transitional housing programs while 1,309 were unsheltered.

The number of unsheltered people was up 13.1% from the previous year, but down 16.2% from 2010.

"All individuals deserve to have a safe and decent place to call home," HUD Deputy Regional Administrator James Cunningham said in a statement. "While we have made significant strides in reducing the number of individuals experiencing homelessness, we

must remain committed to implementing strategies that make it a rare, brief and non-recurring event."

The biggest recent overall decline has come among the chronically homeless, said Marcus Roth, spokesman for the Coalition on Homelessness and Housing in Ohio. That's due to local strategies that have worked, such as permanent supportive housing to stabilize people.

"We've been dealing with a homelessness crisis for so long that we've learned what interventions work and which ones don't," he said in an interview. "There's been a real emphasis on 'let's use the strategies that work now,' and we have the data to figure out what's been effective."

Other strategies that have worked, he said, include rapid rehousing intervention, in which people who lose housing are more quickly connected to services.

"By doing a rapid rehousing intervention that helps them before they get to that point, there's a much better chance that they will become stabilized and back to getting a job and having permanent housing of their own," he said.

Chronic homelessness and other issues have decreased due to better communication and collaboration between state, local and federal agencies, Mr. Roth said. Increased federal funding to combat homelessness among veterans has also helped in reducing that category.

"The bad news is even though the providers, the agencies out there doing this work are doing a better job, there's pressure coming from the other side where rents are rising, incomes are stagnant and there's a growing housing affordability crisis," he said.

The data found homelessness in the count dropped by 27.8% from 2012 to 2017, with declines all over the state except for Columbus and Youngstown. While the Youngstown decline was a small sample size - it rose from 224 in 2012 to 262 in 2017, the Columbus increase was more significant, an increase of 257.

Mr. Roth said Columbus, unlike most other metro areas in the state, is seeing rent and the overall cost of living increase quickly.

Potential changes to the federal tax code could hinder efforts to build affordable housing, he said. A series of tax credits and investment programs that encourage the construction of affordable housing, he said, could be eliminated in a tax bill currently in a congressional conference committee.

The possible reduction or elimination of low-income housing tax credits and historic tax credits, as well as the cutting of the corporate tax rate, could reduce incentives to build affordable housing, Mr. Roth said.

"Especially alarming is the fact that right now the debate in Congress over what to do with the federal tax bill has the potential to make the housing affordable crisis a whole lot worse," he said. "The federal tax code is the only way any affordable housing gets produced and preserved at all."

Ohio Interests Weigh In On Pending Federal Net Neutrality Ruling

The head of the Federal Communications Commission this week rejected the urging of Democratic senators - including U.S. Sen. Sherrod Brown (D-Cleveland) - to delay a forthcoming vote to overturn Obama-era net neutrality rules.

The vote is now expected to proceed Dec. 14 over the objections of consumer advocates, libraries and other opponents both in Ohio and beyond.

Senators argued the commission should take more time to consider the issue and allow for questions to be answered over the veracity of some public comments submitted to the FCC.

Concerns of fake comments on both sides have clouded the proceeding. A review of the docket even shows a fake submission in the name of Sen. Brown - who is against the move - purporting to support the FCC's proposal.

The FCC, which has three Republican and two Democratic members, is now poised to eliminate the rules package next week, which critics say would mark a coup for Internet service providers. The current rules, in part, prevent providers from slowing down or blocking certain content.

Leading the call for change is the telecom industry, including the National Cable Telecommunications Association of which the Ohio Cable Telecommunications Association is a member, which says those fears are unfounded.

"The largest broadband providers have demonstrated throughout this proceeding their clear commitments to their customers regarding Internet openness and that their customers expect them to honor those commitments," the NCTA wrote in a recent filing. "There is no basis to conclude that, after openly making these firm commitments to their customers and the public, any of these companies would turn their back on these pledges for short-term gain."

But some Ohio groups aren't sold on that claim. Metropolitan Libraries of Ohio has called access to information "a pillar of our country's democratic principles" and emphasized libraries' role in serving both urban and rural areas.

"Without net neutrality regulations in place, it becomes inherently more difficult and confusing for customers to understand how to connect to and navigate the internet if content becomes prioritized or even blocked," the group wrote.

"Additionally, the MLO are highly concerned that many applications and programs we provide to customers will be relegated to the internet slow lane or even made inaccessible due to our inability to pay the fees that may become required for faster broadband."

The Ohio Valley Environmental Coalition filed comments alongside several other groups constituting the Voices for Internet Freedom Coalition.

"The FCC's proposed repeal...will harm all Internet users and it will disproportionately harm people of color," the group wrote. "One word sums up the Voices Coalition's message to the FCC in this proceeding: stop."

And Bexley Mayor Ben Kessler has joined 64 other mayors from across the country urging the FCC to rethink its course.

"Net neutrality is a pocket book issue for American households," the mayors wrote. "Full repeal would have a particularly negative impact on middle and working class families, while simultaneously restricting access to certain types of online content and services to those who cannot afford to pay more."

Smaller, nonprofit municipal broadband providers, however, have voiced support.

In a joint filing, 19 of the groups - including Ohio's Oberlin Cable Co-op and CityLink in Wadsworth - wrote that the move will give municipal ISPs incentives to invest in network enhancement. The prior regulation, the companies argued, unfairly subjected them to rules that apply to common carriers and were overly broad.

"For muni ISPs, no longer classifying broadband service as a telecommunications service subject to Title II and eliminating the general conduct standard will provide real benefits for our customer-owners with no downside," the group wrote. "As a result, we will have greater certainty that our investments and development of new services and features will pay off."

DeWine, Great Lakes Advocates Call For Greater Action Against Asian Carp

Attorney General Mike DeWine is asking the U.S. Army Corps of Engineers to close the Brandon Road lock in Illinois in order to shield Lake Erie from invasive Asian carp.

Mr. DeWine's recommendations were submitted this week as the comment window on a federal plan to curb the spread of the species came to a close on Friday.

The Corps in August released a long-delayed federal plan to prevent the carp from entering the Great Lakes. The report, initially set for a February release until it was delayed by the Trump Administration, called for electric barriers, flushing locks, water jets and other steps. (See Gongwer Ohio Report, August 7, 2016)

But Mr. DeWine and other stakeholders say the plan is insufficient and have urged the corps to move quickly in addressing the threat. In June, a live Asian carp was discovered nine miles from Lake Michigan, sparking new fears the invasive species is already on the threshold of the lakes.

In his submitted comments, Attorney General DeWine said, "The Corps should implement the lock closure alternative, which will be the most effective, safest, cheapest to construct, and quickest to complete. The urgent need for action cannot be overstated."

"Due to the severe and irreversible consequences of an Asian carp invasion into the Great Lakes, the most effective measures possible must be used," Mr. DeWine continued. "The lock closure has the least construction and on-going maintenance costs and can be put in place the soonest, both of which are added benefits to this plan."

Great Lakes-area congressional leaders also submitted comments, writing that "Asian carp are on the doorstep of the Great Lakes system and we have a small but critical window of opportunity to stop them there."

Ohioans signing onto that letter include U.S. Rep. Marcy Kaptur (D-Toledo), U.S. Rep. Dave Joyce (R-Novelty), U.S. Rep. Tim Ryan (D-Niles), U.S. Rep. Marcia Fudge (D-Cleveland), U.S. Rep. Bob Latta (R-Lakeview) and U.S. Rep. Jim Renacci (R-Alliance).

Environmental groups and those tied to the lakeside economy have likewise urged swifter action. The Alliance for the Great Lakes, which includes the Sierra Club, the Natural Resources Defense Council, and other groups, said the species pose a "clear and present danger" to both the ecosystem and the regional economy.

"Further delay on implementing additional Asian carp prevention measures at Brandon Road is unacceptable," said Molly Flanagan, the group's president for policy. "The Corps and other government agencies must listen to more than just the wishes of the shipping industry. Instead, the Corps must follow the recommendations of researchers as well as listen to the residents of the Great Lakes region who care deeply about keeping Asian carp out of the lakes."

Fifty sportsmen's groups also weighed in, including Ohio-based Columbiana County Federation of Conservation Clubs, Ohio B.A.S.S. Nation, the Ohio Conservation Federation, the Ohio Council of Trout Unlimited and Silvertip Productions.

"We need stronger controls in place now in order to prevent Asian carp and other invasive species from continuing to swim closer to - and eventually into - the Great Lakes," the groups wrote. "Without firm and swift action to stop the further movement of Asian carp and other invasive species, the future of hunting, fishing and our outdoor heritage in the Great Lakes and Mississippi River region is at risk."

Complaint Filed Against Judge Salerno; Attorneys Disciplined; Ohio Groups Weigh In On Public Sector Union Case; SB33 Praised...

Former state lawmaker and current Franklin County Municipal Court Judge Amy Salerno is facing potential discipline by the high court.

A complaint filed with the Board of Professional Conduct alleges that she lowered the bond for a felony drug defendant from \$350,000 to \$85,000 at the request of a defense attorney without consulting the prosecution.

The defendant posted bond without the prosecuting attorney's knowledge after it was lowered.

The complaint also alleges that Judge Salerno violated the Judicial Code of Conduct in another case in which a defendant appeared before her for making an improper turn. The defendant had an arrest warrant for a previous traffic violation of driving too slow.

The prosecuting attorney in the case offered to dismiss the driving too slow case in exchange for a guilty plea in the improper turn charge. The defendant refused the plea deal and was found guilty of making an improper turn. At that point, according to the complaint, Judge Salerno asked the prosecution to dismiss the remaining charge. When the attorney refused to do so, Judge Salerno found the defendant not guilty on the charge.

After consulting with his supervisor, the attorney again asked for a trial date on the driving too slow case, leading Judge Salerno to again ask for the case to be dismissed.

When the attorney again declined, Judge Salerno then found the defendant to be not guilty of the charge of making an improper turn.

Judge Salerno in 2015 was publicly reprimanded by the Ohio Supreme Court for chastising members of a jury after they found a defendant not guilty.

Her office said the judge was unavailable to comment.

Attorneys Disciplined: The high court this week handed down discipline for several attorneys, and also found a Sidney man engaged in the unauthorized practice of law.

The court unanimously found that Ned Schroeder, who is not an attorney, performed a legal service when he told a debt collector from the Attorney General's office that he was an "authorized representative" of another person, its media arm reported.

Mr. Schroeder was fined \$2,500 and warned not to perform legal services unless he becomes authorized to practice law in Ohio.

In a unanimous decision, the court suspended former city of Niles Law Director J. Terrence Dull for two years, with one year stayed, after it found he misappropriated \$37,000 in client funds, it announced.